

**INTERPRETATION OF ANCIENT INDIAN
POLITY AND POLITICAL THOUGHT:
A HISTORIOGRAPHICAL STUDY**

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BY

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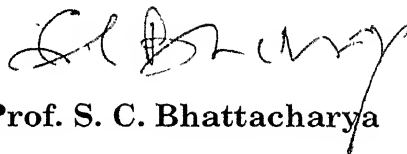
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candidate, Mr. Dinesh Kumar Ojha and is suitable for submission for the
award of D.Phil degree in ancient history culture and archaeology, by the
Univeristy of Allahabad. The candidate has fulfilled the requirement of
attendance and stay.


Prof. S. C. Bhattacharya

For My Grand-Mother

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INTRODUCTION

Renaissance and reformation, changed the world view of Europeans. Religion lost its central position and the past was analysed in a critical manner. The belief in the 'dignity of man' and a 'mechanistic interpretation of the universe', heralded a new era of studies in Humanism and advances in science. Humanism as a programme of studies, replaced the medieval emphasis on logic and metaphysics with the study of language, literature, history and ethics. History in this age not only became secular, non – partisan, instructive and rational but also acquired broader horizon in 'space and time', voltaire accusing the narrowness of universal history brought into fold the past of India, china and Islamic world, on account of their antiquity and high level of culture.

For most of the Europeans, 'Indians of antiquity had no sense of history', was like an axiomatic truth. It was generally assumed, that Indians were so much engrossed in religious and metaphysical speculations, that they had no interest in studying and analysing the mundanae affairs of the world. But such a monolithic interpretation about the culture and tradition of India, did not go unopposed, right from the beginning. 'Indians' were a nation of philosophers,¹ the famous dictum of Max Muller was challenged by scholars like Hopkins and Rhys Davids. Hopkins did

1 . Muller Max – A history of Sanskrit literature – P. 10

not subscribe to the view point that Indians were too much religious. He observes, 'our earliest literature is indeed religious, though with but little mysticism. But the religious elements did not penetrate deeply into unpriestly classes.'¹

History, if defined as a scientific record of unique events or an inquiry into the past with the logical purpose of explaining its causes and consequences, Indians can be said to be ignorant of it. But the views of voltaire, who says, history is neither the story of the kings nor of their deeds but the manners of the people, the mood of the age and the spirit of the times, if taken to be correct, then Indians certainly had a history of their own. The vast mass of ancient Indian literature, the archaeological materials, accounts of foreigners and the floating myths and legends, if analysed dispassionately and critically, are but reliable sources of knowing the past of India.

Even though, the writing on the culture, religion and philosophy of ancient India began with the establishment of Asiatic society of Bengal in 1784, earliest speculations about the polity of early India, can not be traced before, the middle of the nineteenth century. In the period following the revert of 1857, scholars did begin to study the polity and political thought, on the basis of various Dharmasutras and Epics. But it was only with the

1 . Hopkins, E. W. – The social and military position of the ruling caste in Ancient India. P. 126.

emergence of the Nationalist school of historians that the study of ancient Indian polity, came to acquire the central theme. The first half of the twentieth century was the period, when the most extensive and indepth analysis of the political organisation in early India was undertaken.

The nature of polity and political ideas, as existing in ancient India, does not form the subject matter of my research work. Instead, an attempt has been made to understand, 'how different scholars have perceived the polity of early India. The way these issues were looked upon by modern historians and under-scoring the difference in their views, constituted the central them of this thesis. Every historian is a product of his age. Like any other individual a historian too is influenced by the socio-economic environment he lives in. The views, the notions and the prejudices of a historian, undoubtedly come into play, whenever he tries to reconstruct the past. In the course of my study, I have endeavoured to analyse those factors, which affected different perceptions about the political ideas and institutions.

The historiography of ancient Indian polity, has, in the course of its development, passed through different stages. In its initial stage, the so called imperialistic phase dominated the historiography. This was followed by the nationalist and the Marxist phase of history writing. What were the differences and

similarities between these schools of thought ? what were the factors which facilitated the transition of one phase into another ? what was the impact of colonialism in history writing ? Are some of the questions, which are sought to be answered in this dissertation. The historical necessity, which compelled the imperialistic historians to condemn the society and culture of India, was it seems, the intellectual justification for the colonialism. Similarly the nationalist scholars, eulogised the past of India, mainly because it helped in regenerating the pride and self confidence of Indians and thus gave a boost to the national struggle.

Corresponding to the three main stages of historiography my work is divided into three sections. The first section describes the history writing in the nineteenth century. This period, though predominantly imperialistic, also saw the emergence of nationalist school of thought, during the last two decades of the century. The second section which gives a perusal of the historiography in the first half of the twentieth century, witnessed flourishing of the nationalist ideology. Maximum number of works on ancient Indian polity were produced in this period. The post-independence-era of history writing is the subject matter of third section. The impact of India becoming an independent sovereign state and the effect of newer developments in the field of archaeology and anthropology,

which undoubtedly shaped the historical view point, are examined in this section. Here the view-pointd of western Indologists, who overemphasised the religious and sociological aspects of ancient Indian polity and the marxists notion which underlined the importance of economic production in historical evolution, are discussed.

Under each section, the perception of prominent historians are described. These scholars are representative of the school to which they belong. But, even then, the list is illustrative not exhaustive. There are many other historians, who are as good, if not better, than the ones mentioned, but they could not be included, mainly because of constraints in time and space. I have sincerely endeavoured to be impartial and dispassionate in my analysis. However, I have my own limitations and short comings, which hopefully is not overbearing.

In my research work, I was most ably guided by prof. S.C. Bhattacharya. I am extremely grateful to him, for all the supervision, inspiration and patient hearing he gave to me. I owe my gratitude to Mrs. Bhatacharya, she was always very kind and gentle to me. My thanks are due to Prof. B.N.S. Yadava, who enriched me by his advices and comments. Prof. V.D. Mishra has always been a source of inspiration to me. I acknowledge my deep gratitude to him. I am thankful to all other members of my

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I am presenting this work with the hope that it would live up to the expectations of the connoisseurs of the field and would contribute to further studies in this area.

Dey
Dinesh Kumar Dey

Section I

The Imperialistic Phase (1800 – 1900)

Chapter I

THE HISTORIOGRAPHY OF ANCIENT INDIAN POLITY **IN THE NINETEENTH CENTURY**

The assumption that the study of History is a natural, inevitable kind of human activity is quite a recent phenomenon, dating only from the development in the late 18th and 19th centuries of scientific history, cultivated largely by professional historians. The earliest attempts at unravelling the past of India began in the early nineteenth century. Though the inception of the historiography of ancient India can be traced to the last quarter of the eighteenth century, it was only after the revolt of 1857, that the desired momentum could be achieved. Once the Britishers had entrenched themselves in the greater part of India, they realised that an awareness of India's custom, tradition and religion would help them in more than one ways in safeguarding their newly acquired empire.

In its earliest phase, European Indologists were mainly concerned with the study of ancient India's culture and religion. Polity, if ever speculated upon, was confined to its politico-administrative aspect. Writers like Elphinstone, while studying the polity of early India, concentrated on the dynastic lists and the achievements of some individuals. Europeans when came to India,

were imbued with racial, intellectual and moral superiority, Majority of them condemned the Indian society and culture as irrational, unscientific and dogmatic. Writings of some of the European scholars, effused outright contempt and hatred towards India. James Mill had no hesitation in calling the Indians barbarians and morally inept. Commenting upon the culture and tradition of ancient India, he observes, 'every thing we know of the ancient state of Hindustan conspires to prove that it was rude.'¹

The earliest writings on India's past were undertaken by the British scholars and thinkers. They on their part were influenced by the intellectual temper of the post-Renaissance Europe. It was in this period, when the history for the first time disentangled itself with the literature and philosophy, and was struggling to become an independent branch of human knowledge. The basic tenets of the modern European Historiography, undoubtedly had its impact on the earliest perceptions about Indian society and its cultures.

Renaissance which heralded a new era of 'thinking', characterised by a firm belief in the dignity of man, scientific advances and secularisation of thought; also inaugurated the age of modern historiography. Medieval historiography which gave a metaphysical and theological interpretation of past was replaced, in its modern version, by rational and scientific theories. Religion which uptill now had stifled the growth of history gave way to

1. Mill, James- The History of British India, VI II, P. 115

critical and dispassionate analysis of past. Divine providence and renunciation to faith was superseded by a naturalistic interpretation of 'cause and effect'. Pronouncing the changes, which Renaissance ushered in, R.C. Majumdar observes 'Documents were critically studied and many were rejected as forgeries. Tradition and legends were confronted with a sceptical spirit.'¹ Modern European Historiography was divided into three dominant schools of thought, namely (a) Enlightenment (b) Romanticism (c) Positivism. These different intellectual trends had their impact on the nascent Indian historiography in their own peculiar ways.

The Enlightenment Historiography was marked by its emphasis upon Reason; Pragmatism or the treating of historical facts on the basis of their practical lessons; and a staunch belief in the progress of mankind. One of the more important schools of Enlightenment was utilitarianism. Beside emphasising upon the reason as the arbiter of truth it laid down the principle that 'maximum good of the maximum number' should be the guiding principle of state policy. This could be realised by the establishment of a government based on the principle of law and justice. James Mill and Macaulay were the two famous proponents of this theory.

1 . Majumdar R.C. – Historiography in Modern India – p.2

Europe in the middle of the nineteenth century witnessed bewildering social and economic changes which created a feeling of insecurity and alienation among a large number of people. To overcome such misery people were once again attracted to the old religious outlook, local customs and traditions. Such a period which was a reaction against intense rationalism of Enlightenment and relied heavily upon the emotion, imagination and fantasy is known as Romanticism. Historiography under its influence became closely related to literature and style became as much important as content. The main purpose of Romanticism says B. Sheik Ali was to rouse the interest of man in history, to make the events of the past interesting, although at the expense of truth, and to infuse respect for national characters and institutions.¹

Indology received its greatest impetus from this Romanticist historiography. Such thought which regarded each nation as a unit of culture, took a more favourable view of Indian society and culture. Romantics, as Wintemitz observes “plunged with the greatest enthusiasm into everything that was foreign, strange and distant, were particularly attracted by India. From India they expected to obtain nothing less than ‘information about the history of primeval world.’”² Scholars like William Jones, Munro Malcolm and Elphinstone who had a great sympathy for Indian values and institutions made major contribution in unraveling the past of India.

1 . Ali, B. Shak – History. Its theory and method. P. 225

2 . Wintemitz, Maurice – A History of Indian Literature p. VI. 1 P. 12

Just as Romanticism was the reaction to Enlightenment, positivism was a reaction to Romanticism. Being influenced by the developments in the natural sciences this school of thought endeavoured to make History as objective and rational as science is. Condemning speculative tendencies and reducing historical causality to a single concept, the proponents of this new school called upon historians to present all the facts and leave the opinion making to the readers. Leopold von Ranke was a staunch supporter of positivism. He proposed the notion of factual exactitude, and advised historians to describe the events as they actually had happened. The task of historian is not to pass judgement or moralise the reader, but as Ranke puts it 'simply to show how it really was.'¹

In addition to such scholars who were influenced by the newer developments in the intellectual world, there were evangelicals like Shore and Grant who were attracted towards the past of India as well. Being backed by the missionaries, they believed that Christianity would succeed in India only when the religion, values, customs, traditions were understood by the proselytisers. They justified the British rule as a 'divine deliverance' to redeem a condemned humanity; and they tried to change Indian society through conversion and education.²

1 . Ranke – Quoted in E.H. Carr's 'What is history'. P. 5

2 . Ali, B. Shuk – op. Cit. p. 333.

The Western scholars when approached the history of early India had their own well entrenched notions about the concept of history. Based on their attitude towards Indian culture and society they were divided into different groups as conservatives, liberals and radicals; Romantics and utilitarians and so on. In spite of some differences there were certain view-points which were shared by most of the historians. Such notions and view points were so much repeated and used so extensively without giving any second thought, that they became stereotypes.

One of the most dominant and popular stereotypes about India, was the concept of 'unchanging east', it was assumed by westerners that society and government of east were stagnant and devoid of any vigour and vitality. People were averse to any change and took for granted anything and everything. Such an environment called for a 'despotic' government', which was characterised by the concentration of power into the hand of one man. Some of the important characteristics of such a form of government, as professed by its proponents, were Absence of a rule of law; non participation of majority of the population in the political life; government being just a tax-collecting machinery totally unconcerned with the welfare of the population; non existence of the feeling of patriotism and nation hood.

Different reasons have been cited by scholars to explain such a phenomenon. One of the prevalent view points was effect of excessive heat on the body and mind of the Indians. Thus montesquieu thinks that tropical heat deprives the body of all vigour and strength leading to the unchanging character of laws and customs.¹

Richard Jones however opines that sovereign's proprietary right to the land, which makes every body dependent for his livelihood on the sovereign perpetuated the oriental despotism.² Another explanation was the self sufficient village economy which hardly required any outside help, facilitated the rise of despotism.³ This theory first advanced by Hegel was accepted by Marx as well, albeit with some modifications.

Karl Marx proposes the concept of 'Asiatic mode of production' to understand the society and polity of ancient India... 'Indian village communities are based on the possession in common of the land, on the blending of agriculture and handicrafts, and on an unalterable division of labour..... The chief part of the products is destined for direct use by the community itself, and does not take the form of a commodity... The simplicity of the organisation of production in there self sufficing

1 . Quoted in R.S. Sharma's Aspects of political ideas and institutions in Ancient India – p. 78

2 . Ibid. P-79

3 . Ibid. p. 82

communities...supplies the key to the secret of the unchangeableness of Astatic societies, an unchangeableness in such striking contrast with the constant dissolution and refounding of the Asiatic states....”

Society according to Marx was dynamic and marked by the constant struggle between the classes of haves and have nots. Control over the mode of production and distribution not only established the economic superiority but also resulted in the political domination of the economically rich class over those who did not have any control over the economy. But even for Marx, Indian society was static, and the production was independent of division of labour. He thinks that England, notwithstanding its greed, and indiscriminate exploitation did create such condition which resulted in breaking the stranglehold of tradition. Thus accepting that England was actuated only by the vilest interests. Marx says, whatever may have been the crimes of England she was the unconscious tool of history in bringing about the revolution.²

Another important stereotype was the predominance of religion and metaphysics on the polity of ancient India. The Dichotomy between the cultures of West and East in which former was full of life and vigour whereas the latter passive, meditative

1 . Mark Karal capital I

2 . Marx Karl – on colonialism p. 41 The British Rule in India.

and transcendental, formed the basis of many writings on ancient Indian polity and society. The Indians of antiquity were considered to be so much engrossed in the other worldly affairs that they did not show any interest towards the problems of this mudane world. Such a people would show least concern towards the political affairs of the state, needs on emphasis. Max Muller makes following observation regarding the attitude of Indians, 'The Hindus were a nation of philosophers; their struggles were the struggles of thought; their past the problem of creation, their future, the problem of existence.'¹

Existence of a superior Aryan Race which was responsible for the growth of all great civilizations and best of human institutions, was nurtured by Europeans of eighteenth and Nineteenth centuries. Perhaps this notion of superiority made the westerners think that they were on a mission to civilize the hitherto barbarians. Mill would call the Indians rude, immoral and slavish in book II of his work history of British India, and Max Muller supported the notion that vedic people who formulated the wonderful language of Sanskrit and invented the subtle philosophy belonged to the Aryan Race.²

1 . Muller Max – A History of Sanskrit literature p. 16

2 . Muller Man – India what can it teach us. P. 14

Another important stereotype which greatly influenced the earliest writings on ancient India was the view that Indians of antiquity had no sense of history. It was generally held by Europeans that in Indian literature the historical facts cannot be separated from myths and legends. The practice of describing the contemporary events by taking into account its socio-economic implications was not developed. Thus James Mill observes. 'This people, indeed, are perfectly destitute of historical records.'¹ In the same vein Elphinstone writes 'history of ancient India is almost exclusively mythic and legendary'² and Rhys Davids laments the paucity of historical records.³

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- 1 . Mill James – The History of British India P. 14
 - 2 . Elphinstone, M. – The History of India p. VI
 - 3 . Rhys Davids – op. Cit p. VI.

Historiography of Ancient India in the first half of the Nineteenth Century

Having established their supremacy over India by the end of the Eighteenth Century, Britishers were naturally the first among Europeans who began the process of studying the past of India. However, by the middle of the nineteenth century other Europeans, especially the Germans, too began to take active interest in the history of India.

British historians who took interest in the past of India, mainly concentrated upon the contemporary British India and the Medieval Period. Their knowledge of the ancient India was very meagre. Thus, Robert Orme who was among the first Britishers to study Indian history remarked 'The Indians have lost all memory of the ages in which they began to believe in vishnu, Isvara, Brahma and a hundred thousand divinities subordinate to these... The history of these gods is a heap of the greatest absurdities.'¹ But, very soon there emerged a host of scholars who studied Sanskrit so that a better understanding of Hindu culture and civilization could be achieved. The foundation of the Asiatic society of Bengal in 1784 by William Jones was perhaps the first organised attempt towards the study of the cultural history of

1. Orme Robert – Quoted in R.C. Majumdar's *Historiography in Modern India*.
P. 8.

India. The task of preparing and publishing critical editions of important texts and in many cases their English translations were taken up by this society. Hundreds of articles on Indian antiquity were published in the journals of the Asiatic Society. Early Indologists besides learning Sanskrit, also searched and collected old manuscripts, systematised and organised the orally floating Dharmashāstras. In the course of such research close linguistic affinity was discovered between Sanskrit and European languages such as Greek, Latin, Celtic etc....¹

It was William Jones who laid the foundation stone of British Indology. He belonged to the group of such scholars who had a great sympathy towards Indian culture and its institutions. Unlike the utilitarians who condemned Indian Society in no uncertain terms, Jones had a very high opinion of Indian religion and philosophy.

It is to the credit of William Jones who for the first time, not only pronounced the geneological connection of Sanskrit with Greek and Latin but also pointed out the similarities of ancient Indian and Greeco Roman mythology.² Regarding the polity of Ancient India, William Jones' translation into English the law book of Manu, with the title 'Institutes of Hindu Law' or 'the Ordinances of Manu', is an important step, for it initiated a process of

1. Winternitz, M- Op. Cit. P. 4

2. Ibid. p. 10

translating and analysing the Dharmasastras. When W. Jones passed away in 1794, Colebrooke took over the translation of the teachings of Indian Law Books on the laws of succession and contracts. This appeared in 1797 – 98 under the title 'A Digest of Hindu Law on contracts and succession.'

However, even before these translation of ancient law books, Warren Hastings took a decision that native scholars should be present during court proceedings so that the English judges might pay due attention to the paragraphs of Indian books of law while pronouncing judgments. These opinions by Pandits regarding the ancient laws of Hindu were compiled in a book entitled 'Viv•d•ranavasetu' (Bridge to cross the ocean of disputes).¹ Its English translation 'A code of Gentoo Law' was printed in 1770.

Even though Early Indologists like Jones, Colebrooke had shown sympathy towards India's past, their efforts could not result in any comprehensive work on Indian history, and far less on its polity. They were more than anything, attracted towards the classical literature which would but provide an incomplete picture of ancient India. It was James Mill the author of 'History of British India', (1818) who is often regarded as the first historian of India. Mill was a utilitarian and was imbued with the basic tenets of modern historiography. Being employed in the office of East Indian Company he had access to every bit of paper from India;

1. Ibid, p. 8

and it was on these information, beside the accounts of earlier travellers and indologists, that he wrote his voluminous work. His utilitarian outlook led him to assert the primacy of rationalism, humanism and pragmatism. He opposed any despotic government based on caste creed and class consciousness. It is perhaps because of such modernistic approach that inspite of his many shortcomings, he is often described as the 'first great historian of India.'¹ R.C. Majumdar observes 'Judging at this distance of time, one cannot but admit that though Mill's book had great faults, it had also great merits, and he should justly be regarded as a great historian with modern ideas of historiography.'²

James Mill, however, had supreme contempt and disdain for Indian society and its institutions. He described the Indian laws and customs as irrational, decadent and stagnant . His writings also smacked of racial superiority of Europeans, as he observed 'the people of Europe, even during the feudal ages were greatly superior to the Hindus.'³ He further says 'in the still more important qualities, which constitute what we call the moral character , the Hindu ranks very low.'⁴ Mill also criticised thinkers like voltaire, Jones for they praised Asian nations. Commenting upon Jones Mill observes 'It was unfortunate that a mind so pure, so worm in the pursuit of truth, and so devoted to oriental

1 . Majumdar, RC – op. Cit. P. 8

2 . Ibid, p. 9

3 . Quoted in Ibid, p. 13

4 . Ibid.

learning, as that of Sir William Jones, should have adopted the hypothesis of a high state of civilization in the principal countries of Asia.'¹

James mill, in Book II of his work (The History of British India) expresses his views about the 'Hindus'. He studies in detail the society, religion, art, literature and also speculates upon the forms of government, laws and taxes. In his writings we can trace most of the 'stereotypes' employed by the Europeans to approach the Past of Asia in general, and India in particular. He, thus assumes, that Indians (Hindus) had little sense of history, society was stagnant and stratified, Government was despotic and laws were decadent.

Talking derisively of the antiquity of Asian nations Mill observes 'Rude Nations seem to derive a peculiar gratification from pretensions to a remote antiquity. As a boastful and turgid vanity distinguishes remarkably the oriental Nations they have in most instances carried their claims extravagantly high.'² Mill had very low esteem for the Hindus as far as their sense of history and the notion about truth was concerned. The wildness and inconsistency of the Hindu statements evidently place them beyond the sober limits of truth and history.³ Commenting further he observes 'These people, indeed, are perfectly destitute of historical records.

1. Ibid, p. 11

2. Mill, James – The History of British India (II ed. 1820- London) – p. 133.

3. Ibid – p. 142

Their ancient literature affords not a single production to which the historical character belongs.¹ He also points out that the facts and statements considered to be historical facts are nothing more than fables and imagination; of a body of statements, given indiscriminately as a matters of fact ascertained by the senses, the far greater part was in general only matter of opinion, borrowed in succession by one set of Indian gentleness from another.²

It was perhaps a common perception among the Europeans that the oriental world was preoccupied with the Religion and metaphysics. Society, for that matter the laws, the government, the values and ideals, all were supposed to be overwhelmed by Religion. In this regard Mill observes as following 'No where among Mankind have the laws and ordinances been more exclusively referred to the Divinity, than by those who instituted the theocracy of Hindustan. The plan of society and government, the rights of persons and things, even the customs, arrangements, and manners of private and domestic life, everything in short is established by divine prescription. The first legislator of the Hindus, whose name it is impossible to trace, appears to have represented himself as the republisher of the will of God.'³

The society of the Hindus according to Mill was stratified into castes which was characterised by the stark differences in

1. Ibid.- p. 144

2. Ibid, Preface – p. i.

3. Ibid, p. 155.

privileges and rights between the Brahman and the Sudras. The priests usurped all the powers and prestige whereas Sudras were left to be exploited and despised. The priesthood is generally found to usurp, says Mill, "the greatest authority in the lowest state of society The Brahmans among the Hindus have acquired and maintained an authority more, exalted, more commanding, and extensive, than the priests have been able to engross any other portion of Mankind."¹ Contrasting the position of Sudras with Brahmans, mill observes 'As much as the Brahman is an object of intense veneration, so much is the sudra an object of contempt, and even of abhorrence to the other classes of his countrymen. The business of the Sudras is labour, and their degradation inhuman. Not only is the most abject and grovelling submission imposed upon them as a religious duty, but they are driven from their just and equal share in all the advantages of the social institutions.'²

Besides the predominance of religion, another recurring theme among the westerners regarding the political life of oriental world was the prevalence of 'Despotism'. It was generally assumed that the polity of the East was characterised by the concentration of all powers into the hands of a single man who often ruled with an iron hand. Rule of 'law' and people enjoying certain rights were totally alien to the nations of oriental world. In the same vein mill

1 . Ibid, p. 159.

2 . Ibid, pp. 167-168.

thinks. 'Among the Hindus, according to the Asiatic Model, the government was monarchical, and with the usual exception of religion and its ministers, absolute. No idea of any system of rule, different from the will of a single person, appears to have entered the minds of them or their legislators.' In the west Government was based on the principles of 'checks and balances' and division of power.' The central authority was divided into many departments and each were assigned a specified task. But, Mill thinks, the machinery through which the power of the sovereign was exercised, thinks Mill 'was a contrivance extremely simple and rude.'²

James Mill, in true sense of the utilitarian philosophy, regards law and government as the only means for changing society and bringing justice. And it was in the sphere of law and judiciary, where the Indian system was supposedly most deficient and unscientific. In the law Books of the Hindus, the details of jurisprudence and judicature occupy comparatively a very moderate space.³ Commenting further, Mill says 'notwithstanding the mildness which has generally been attributed to the Hindu character, hardly any nation is distinguished for more sanguinary laws.'⁴ Another important characteristic of ancient Hindus, which is underlined, was the fact that king was also the head of the justice. Explaining such a phenomenon Mill observes 'various circumstances tend to produce this arrangement. In the first place,

1. Ibid. p. 175.

2. Ibid, p. 176.

3. Ibid, p. 192.

4. Ibid, p. 218.

there are hardly any laws, and he alone is entitled to judge, who is entitled to legislate, since he must make a law for every occasion. In the second place, a rude people, unused to obedience would hardly respect inferior authority.¹ Mill also pronounces that the powers to legislate and amend laws was often confined into the hands of priests. The power of legislation therefore exclusively belongs to the priesthood.... The king therefore is, so far from possessing the judicial power, that he is rather the executive officer by whom the decisions of the Brahmans are carried into effect.²

The moot question confronting us is, how could a philosopher and thinker, who was a firm believer in the progress of human kind, who opposed despotic government of any form; in whose view reason and intellect were the last arbiter of knowledge; could nurture so much disgust and contempt for Indian culture and history? Taking a softer approach one can assume that, mill being a utilitarian was a great supporter of law and justice and any government not based on these tenets could not command his respect. 'According to Mill, the earlier regimes, particularly the Hindus, had failed in social justice, and hence in the scale of civilization they will not rise high. If the British too were to ignore this aspect, they too would be categorised as barbarians'. But it would be perhaps more realistic to ponder that it was in conformity

1. Ibid, pp. 182-183.

2. Ibid, p. 188.

with the deep rooted prejudice, and preconceived notion, which the Europeans in general, nourished while looking towards the oriental world. People of the East were unaware of the rule of law, sense of justice and the principles of rationality, was the dictum which did not require any reconsideration for European Savants. Such a notion of Racial superiority coupled with the exigencies of colonialism would suffice to explain mill's so critical remarks about India.

Notwithstanding the mode of utilitarians, there were historians like John Malcolm, Peter Auber, Montstuart Elphinstone, John Clark Marshman, who approached the Indian history with a sensitivity it deserved. Montstuart Elphinstone's book 'The History of India' first published in 1839, is often regarded as the first genuine work on the study of India's past. Elphinstone's history belonged to Romanticist school which relied, more upon sentiments and emotions and less on the logic and rationality. Unlike the Enlightened philosophers, Elphinstone did not subscribe to the view that human nature was same all over the world which could be changed by a government and law. The traits and characters of human beings are dependent upon the surrounding environment and thus vary from region to region and time to time. This being the basic tenet of Elphinstone's historiography he studies the Part of India, by taking into account its peculiarities and uniqueness. He had great respect for the ideas

and institutions of East . Comparing the Indians of antiquity with greeks, Elphinstone observes. 'however inferior in spirit and energy as well as in elegance to that Heroic race (Greeks as painted by Homes), yet on contrasting their law and forms of administration, the state of the arts of life, and the general spirit of order and obedience to the laws, the eastern nation seems clearly to have been in the more advanced stage of society. Their internal institutions were less rude; their conduct to their enemies more humane; there general learning was much more considerable; and in the knowledge of the being and nature of God, they were already in possession of a light which was but faintly perceived even by the loftiest intellect in the best days of Athens.'¹

The methodology adopted by modern historians is also evident in the work of Elphinstone. He made a critical use of available historical materials and could easily distinguish fables and legends from genuine history. He was perhaps the first historian who felt the need of a chronological framework for the history of Ancient India. Dismissing the traditional Hindu concept of the four yugas extending over a period of more than four million years, he started the history of Hindus from the date of compilation of Rig Veda. E.B. Cowell in his advertisement to the Vth edition of Elphinstone's book, makes the following remark, 'Now one merit of the Hindu period of Mr. Elphinstone's History is , that he endeavours to avoid, as far as possible, all legendary

1 . Elphinstone, M-'The History of India', ed. Cowell, 9th ed. (1905), p. 52.

details, and to confine himself to these authentic fragments of information, which can be gathered up from still existing monuments, as those of Ashoka, or such indirect native sources as manu's institutes, or the accounts of foreign visitors as the Greeks. His 'Hindu' period almost entirely ignores the gigantic visions of Pauranik Mythology.'¹ Elphinstone describes in detail the administration, society, religion and philosophy of the Ancient India and this led R. C. Majumdar to observe that 'the foundations of the cultural history of Ancient India were well and truly laid by him.'²

As if synchronising his views with the prevalent European notion of Indians lacking a sense of history, Elphinstone too observes 'no date of public event can be fixed before the invasion of Alexander; and no connected relation of the national transactions can be attempted untill after the Mahomedan conquest.'³ But he adds 'Notwithstanding this remarkable failure in the annals of the early Hindus there is no want of information regarding their laws, manners and religion, and if we can ascertain their condition at a remote period and mark the changes that have since taken place we shall lose very little of the essential part of their history.'⁴ Thus unlike the dominant view point of Europe, Elphinstone did not discard the history of India as consisting of only fables and mythologies.

1. Ibid, p. vi.

2. Majumdar, R.C. op. Cit. P. 17.

3. Elphinstone, M. op.cit. p. 12.

4. Ibid, p. 12.

Examining the society of Ancient India, Elphinstone takes caste system, which is marked by its predominance of Brahmans over all other classes, as the most prominent characteristic. The first feature that strikes us in the society described by Manu is the division into four classes or casts (the sacerdotal, the military, the industrious and the servile).¹ Underlining the privileged position of Brahmans, elphinstone says, 'the interpretation of law is expressly confined to Brahmins.'² The property of the Sacred class is as well protected by law as its powers.³ Like many other European scholars Elphinstone accept that 'laws were inhuman, which are made in favour of the other classes against the Sudras,'⁴ However, Elphinstone was one scholar who asserted that the caste system though possessed of many drawbacks was not so much maligned as professed by many. He says 'The institution of caste, though it exercises a most pervicious influence on the progress of the Nation, has by no means so great an effect in obstructing the enterprise of individuals as European writers are apt to suppose.'⁵ He also points out that 'The condition of Sudras therefore, was much better than that of the public slaves under some ancient republics.'⁶

1. Ibid, p. 14.

2. Ibid. p. 17.

3. Ibid. p.

4. Ibid. p. 19.

5. Ibid. p. 61.

6. Ibid. p. 20.

Like his predecessor Mill, Elphinstone too thinks that, 'government was vested in an absolute monarch.'¹ He (king) was subject indeed to no legal control by human authority.² Though the ruler was according to Dharmasastras, bound to follow certain rules and there was provision for censure as well, Elphinstone opines 'No means are provided for enforcing those penalties and neither the councils nor the military chiefs appear to have possessed any constitutional power but what they derived from his will.'³

Talking about the notion of law in Ancient India Elphinstone is not swayed by the general temper of the day . He takes a balanced view, and besides pointing towards the negative aspects of law also highlights the better side of it. Thus even though he holds that 'criminal law is very rude', ⁴ the laws of civil judicature according to him, are very superior to the penal code, and, indeed are much more rational and matured than could well be expected of so early an age.⁵ Similarly Elphinstone holds that 'the law of evidence in many particulars resembles that of England.'⁶ Countering the notion that Hindu law, gives a direct sanction to perjury he says 'yet there is more space devoted in this code to the prohibition of false evidence, than to that of any other

1 . Ibid, p. 21.

2 . Ibid, p. 22.

3 . Ibid. p.

4 . Ibid., p. 29.

5 . Ibid, p. 33.

6 . Ibid, p. 33-34.

crime, and the offence denounced in terms as awful as have ever been applied to it in any European treatise either of religion or of law.’¹

Even if the study of ancient Indian history was being conducted with the help of critically editing and translating old Books, mostly the Dharmas•stras, some newer developments related with archaeology were also taking place. The Decipherment of Brahmi script by James Prinsep in 1837, unleashed a new era in the field of ancient Indian historiography. Inscriptions supplemented by coins and monuments provided three dimensional facts which could be arranged in chronological order. They provided contemporary records of ancient Indian history and helped in arranging the facts in chronological order. Such archaeological facts were free from any interpolations and distortions and thus formed an authentic source material. Besides Political life, a lot could be understood about the art, religion and economic conditions of different periods in ancient India. Though Prinsep did decipher the Brahmi, it was Alexander Cunningham who laid the foundation of Archaeology in India. He wrote the ‘Ancient Geography of India’ and edited the Ashokan inscriptions. Even though Cunningham and many others, were not professional historians they provided authenticity to the history of India and more than any thing else, helped in developing a scientific conception about history.

1 . Ibid, p. 34.

II

Historiography of Ancient Indian Polity in Second Half of the Nineteenth Century.

It was the Britishers who initiated the process of studying Sanskrit and often editing and translating many important Sanskrit works into English. On the basis of such early works many historians ventured into unravelling the part of India. Soon the echoes of 'Indology' began to be heard in other parts of Europe as well. Chief among the European countries (Besides Britain) where Indology received its most fertile ground was Germany. The study of India and its language began in the early nineteenth century, but within a span of fifty years, Germany superseded all other nations in the field of Indology. The attitude of Germans towards India and its tradition is made clear by Max Muller's following remark, 'A scholar who studies Sanskrit in Germany is supposed to be initiated in the deep and dark mysteries of ancient Wisdom, and a man who has travelled in India, even if he has only discovered Calcutta, Bombay or Madras, is listened to like another Marcopolo.'¹

Analysing the reasons for the Germans being so much attracted towards the past of India, it can be conjectured, and that too quite safely, that the rise of Romanticism created a conducive

1 . Muller Max – India what can it teach us? P. 4.

atmosphere for the same. India was expected to throw some light about the idyllic part of Mankind. As Romila Thapar says 'Indian Society characterised by harmony and an absence of social tension – was a utopian society.'¹ Leopold V. Schroeder opines 'Indians are the folk of Romanticism in ancient times. Germans are so in modern times...'² Drawing a parallel between the mental make up of Germans and the Indians G.Brandes observes 'the inclination to perspective observation and to abstract speculation as well as leanings to Pantheism are common to Germans and Indians.'³ Similarly winternitz thinks that 'Sentimentality and natural feeling are equally characteristic of German and Indian poetry, whereas they are entirely unknown to Hebrew or Greek poetry.'⁴

Poet Friedrich schlegel was the founder of Indian philology in Germany. Bopp, Grimm, Humboldt, Roth were some other scholars who devoted themselves to the study of Indian literature. Classical sanskrit literature, 'the drama Shakuntala, Bhagawadgita, law book of Manu, collection of fables Hitopadesa were the major works with which they occupied themselves.'⁵ It was French Orientalist Eugene Burnouf along with his pupils Rudolph Roth and Max Muller who laid the foundation to the study of the veda in Europe.

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- 1 . Thapar Romila - The Past and Prejudice – p. 5.
 - 2 . Quoted, I Maurice winternitz op. Cit. P. 6.
 - 3 . Ibid., p. 6.
 - 4 . Ibid., p. 6.
 - 5 . Ibid., p. 16.

Perhaps the most revered name among the early European Indologists was that of Max Muller. He had great respect for the past of India. He underlined the importance of Oriental world, and India in particular, for a proper understanding of human evolution and progress. Max Muller observes, 'And in that study of the history of the human mind, in that study of ourselves, of our true selves, India occupies a place second to no other country.'¹ Calling India, 'in some parts a very paradise on earth,' Max Muller observes, 'If I were asked under what sky the human mind has most fully developed some of its choicest gifts, has most deeply pondered on the greatest problems of life, and has found solutions of some of them which well deserve the attention even of those who have studied plato and Kant – I should point to India.'² He also did not mince his words while criticising scholars, like Mill. The book which I consider most mischievous, may, which I hold responsible for some of the greatest misfortune that have happened to India, is Mill's History of British India.'³

Max Muller was one of the few earliest scholars, who understood the importance of Sanskrit and vedas for the proper understanding of Ancient India. He edited the whole text of 'Rig – Veda', with the commentary of S•yana (1848), and in 1859 published his 'History of Sanskrit literature', in which all the

1 . Muller Max – India What can it teach us? P. 13.

2 . Ibid., p. 6.

3 . Ibid., p. 39.

Sanskrit texts known till then were mapped out in chronological order. Another outstanding achievement of Muller was the founding of the 'Sacred Books of the East' (1875) series, which made available in English translation the rich store of source materials preserved in Sanskrit and Sanskritic literature.

Knowledge of vedas and the Sanskrit language were important not only for knowing the history of ancient India, but also for a proper understanding of European history as well. Muller observes, 'Vedic period, deserves the careful attention, not of oriental scholars only, but of every educated man and woman who wishes to know how we, even we here in England and in this nineteenth century of ours, came to be what we are.'¹ He further comments 'It (vedas) can teach us lessons which nothing else can teach, as to the origin of our own language, the first formation of our concepts and the true natural germs of all that is comprehended under the name of civilization, at least the civilization of the Aryan race, that race to which we and all the greatest nations of the world the Hindus, the persians , the Greeks and Romans, the slavs, the celts, and last not least the Teutons belong.'²

The myth of a superior Aryan Race supposed to be responsible for the development of human civilization, also seems

1 . Ibid., p. 106.

2 . Ibid., p. 105.

to have been subscribed by Max. Muller. Taking Hindus of ancient India as belonging to the family of Aryan Race, Muller writes 'Our nearest intellectual relatives, the Aryas of India, the framers of the most wonderful language, the Sanskrit, the fellow-workers in the construction of our fundamental concepts, the fathers of the most natural of natural religions, the makers of the most transparent of mythologies, the inventors of the most subtle philosophy, and the elaborate laws.'¹ However, Muller though traces the same descent of the Indian Aryas as of Europeans, he propounds that the temperament of the two were different, 'whereas in his migrations northward his active and political energies are called out and brought to their highest perfection, we find the other side of the human character, the passive and meditative, carried to its fullest growth in India.'²

Like many other European scholars, Muller too, thinks that the Ancient Indians were too much engrossed in the metaphysical speculation and other worldly affairs. It was the transcendental world, which attracted the Hindus; whereas the present world was considered to be transitory and thus worthless. How religion encompassed the whole life of Ancient Indians; is made clear through his following observation, 'religion was not only one interest by the side of many. It was the all absorbing interest, it embraced not only worship and prayer, but what we call

1. Ibid, p. 14.

2. Ibid., p. 85.

philosophy, morality, law and government – all was pervaded by religion. Their whole life was to them a religion – everything else was, as it were, a mere concession made to the ephemeral requirements of this life.’¹ The dichotomy between the oriental and occidental world is also brought to fore when Muller writes ‘to the Greek, existence is full of life and reality, to the Hindus it is a dream an illusion. The Greek is at home where he is born, all his energies belong to his country and is ready to sacrifice even his life to the glory and independence of Hellas. The Hindu enters this world as a stranger, all his thoughts are directed to another world he takes no part even where he is driven to act, and when he sacrifices his life it is but to be delivered from it.’²

If the inhabitants of Ancient India were concerned so much with the spiritual aspect of life and had least to do with mundane affairs, it would follow as a natural corollary that ‘science of polity’ would not develop into an independent branch of studies. It was almost universally, accepted by the Europeans that ancient Indians did not have a feeling of nationality, and Patriotism was never recognized as a virtue. This was so primarily because of the passive, meditative and inward looking mentality of Indians. Max Muller also reflects a similar view point when he writes. ‘History supplies no second instance where the inward life of the soul has so completely absorbed all practical faculties of a whole people, and

1 . Ibid., p. 96.

2 . Muller, Max – A History of Sanskrit Literature, p. 9.

in fact destroyed those qualities by which a nation gains its place in history. While other nations as Egyptians, Greeks, Romans.... Have during certain periods, culminated on the political horizon of the world, India has moved in such a small and degraded circle of political existence that it remained almost invisible to the eyes of other nations.”¹

Thus we can infer that Max Muller had a very high opinion about the language, religion and literature of ancient India. But he too subscribed certain to stereotypes, like the Indians could not make a mark in the field of polity, feeling of Nationality was not much cherished upon, and the myth of a superior Aryan race. However, Muller, while underlining the primacy of religion and philosophy in the life of ancient India does have a feeling of admiration not contempt.

Publication of sacred Books of the East’ series was a major step in the direction of discovering the past of India. This series made available in English the vedas, upanisads, Buddhist and Jaina canonical works. But the critical edition and translation of various Dharma sutras and smritis proved to be of immense help in knowing the polity of Ancient India, more specifically its ‘law’. General evolution of these Dharm-sutars into metrical smritis; Existence of special Law schools which were devoted exclusively towards the formulation of legal tenets; and like, are discussed in

1 . Ibid, p. 16.

introduction to various volumes of this series, by scholars like Max Muller, Buhler, Jolly, Eggiling. As a marked departure, it was emphasised that law schools were free from sectarian influences and the methodology employed by compilers of Smritis was critical and comparative. In place of many Brahmanical and mythical legends, historical and social evolution of the legal institutions were put forward. The Discovery of the Dharma Sutras, opines Buhler, enabled Max Muller to dispose finally off the Brahmanical legend according to which 'Hindu society was supposed to be governed by the Codes of ancient sages, compiled for the express purpose of tying down each individual to his station, and of strictly regulating even the smallest act of his daily life.'¹

The Dharma-sutras (Aphorisms on the Sacred Law) as taught in the schools of Apastamba, Gautama , Vasistha and Bauddhayana, were translated into English by Julius Jolly with the title 'The minor law Books' which forms the XXXIII volume of sacred Book of East (S.B.E.). Unlike many Brahmana theoreticians who assumed that these Sutras are sacred because they are revealed works on par with vedas, scholars like Muller and Buhler underlined their human origin. Muller observes 'Dharma Sutras are the products of Sutra Charanas i.e. Vedic Schools whose founder did not pretend to have received revelation of vedic Mantras or of a Brahman text, but merely gave a new systematic

1 . Quoted in introduction to S.B.E. Vol. II, part I, by G.Buhlea, p. ix.

arrangement of the precepts regarding sacrifices and the sacred laws.¹ Buhler also proposes similar opinion when he writes 'Dharma Sutras are the compositions of ordinary mortals, based on the teachings of the vėdas, on the decisions of those who are acquainted with the law and on the customs of virtuous Aryas. In some cases these authors say as much in plain words. Thus Apastamba repeatedly laments the sinfulness and the weakness of 'the men of later times' and Gautama warns against an imitation of the irregular conduct of the ancients whose great 'lusture' prevented them from falling.'² Such explanation for the origin of 'Sacred laws' is in conformity with modern historiography which seeks to substitute myths and legends with historical evolution, where man is the precursor to all the developments in human society. Commenting upon the nature of changes brought about Buhler further writes 'Max Muller substituted a rational theory of historical development for the fantastic fables of the Hindu tradition.'

Dharma-sutras include not only the precepts for the moral duties of all Aryas but also the special rules regarding the conduct of kings and the administration of the justice. But their arrangement of such rules is frequently unsystematic, and the treatment of legal procedure, the civil and criminal, with the

1 . Ibid, p. XVII.

2 . Max. Muller – Quoted in S.B.E. Vol. XXV by G.Buhlea, p. xx.

exception of one single title, the dayavibhaga, i.e. law of inheritance and partition extremely unsatisfactory. Metrical smritis, which according to Buhler, evolved out of various Dharma-Sutras, show a marked change in this direction. 'They are the exclusive property of the special law schools and they show a fuller and more systematic treatment of all legal topics, while at the same time, more or less clear traces of older redactions connected with the vedic schools are to be found. They are free from all signs of sectarian influence or of having been composed like many of the later digests, at Royal command. They finally, exhibit unmistakable marks of being school Books.'¹ Comparing the institutes of Manu with the earlier Dharma Sutras Buhler further observes, 'description of the duties of the king including the administration of justice and the civil and criminal law, occupies considerably more than one third of the whole, whereas, none of the older law Books, devotes more than one fifth of its texts to such matters.'² Similarly Jolly pronounces 'It (Narada Smriti) is in fact the only Smriti, completely preserved in manuscript, in which law, properly so called is treated by itself, without any reference to rules of penance, diet and other religious subjects; and it shows a new and an important light on the political and social institutions of ancient India at the time of its composition.'³

1 . Ibid, p. liv.

2 . Ibid., p. lv.

3 . Tulues Jolly, S.B.E. Vol. XXIII p. xv.

As a departure from earlier held notion that ancient India did not witness the growth of law, separate to that of kingly commands, scholars like Buhler talk of the existence of 'Special Law Schools' which devoted themselves exclusively to the development of 'law'. Commenting on the nature of such schools, Buhler remarks, 'These law schools were independent of any particular sakha of the veda, and supplanted the vedic charanas as far as the teaching of the sacred law is concerned.'¹ Buhler in an effort to explain the process through which these law schools emerged and evolved makes following observation, 'Vedic schools first systematised and cultivated the six sciences. As the materials for each of these subjects accumulated and the method of their treatment perfected, new schools of science such as 'school of law', which restricted the range of their teaching, taught their curriculum thoroughly and intelligently, came into existence.'² It is also pointed out that proponents of various law schools, unlike the vaidika did not rely on repeating by rote the texts, but employed the techniques of "Comparative analysis' before compiling his law book. Buhler enunciates the whole process in following words. 'Thus though a Pandit who chiefly devotes himself to the sacred law may belong to the vedic school of Baudhayana or Apastamba, he will not make Baudhayana's or Apastamba's Dharma Sutra the starting point of his studies, on the contrary, it

1 . Buhler,G. S.B.E. Vol. XXV p. xlvi.

2 . Ibid, p. xlvi.

will frequently happen that he possesses no knowledge of the Dharma Sutra of his school, except a few passage quoted in the commentaries and digests. If he has read the whole work, he will consult it only as one of the many utterances of the ancient sages. He will not attribute it a higher authority than to other smritis, but interpret it in accordance with the rules of the secondary Dharma Sastras of Manu or Yagn'avalkya.'¹

In the second half of the nineteenth century, German scholars, it seems, showed the greatest leaning towards indology, Britishers did not show the same zeal which characterised the efforts of Jones and Wilson. Such a state of affairs is underlined by Rhys Davids when he says 'And throughout England the state of things is nearly as bad. In all England, for instance, there are two chairs of Sanskrit. In Germany the Government provide more than twenty-just as if Germany's interests in India were more than ten times as great to ours.'² This is not, however, to suggest that British historians ceased to have any interest in the study of Ancient Indian history.

Some of the developments in the field of natural sciences alongside changes in the Socio economic environment of Europe as a whole, had its impact on the writings of history. Theories of Darwin, more than anything else, greatly influence the general

1 . Ibid, p. xlix.

2 . Rhys Davids, T.W.- Buddhist India – preface p. vii

temper of the age. Analogous to 'Survival of the fittest', it was assumed that strong nation had natural right to overpower the weaker nation. Those historians like Stephen and Strachey would justify the British rule over India as morally correct and politically sound. It was taken for granted that the Britishers could establish their supremacy because they represented an advanced state of civilization and they had mission to fulfil, namely to bring the backward oriented people into the mainstream of human progress. Nevertheless there were many who did not share the views of Stephen and Strachey. Henry Beveridge, William Hunter and J. Tallboy Wheeler showed respect for Indian culture and ever. Unlike the earlier administrator historians who gave more credence to personalities attempts were made to depict the life of people. Wheeler's 'History of India from the Earliest times' in five volumes (1867-76), suggests that India had failed to develop nationalities because of the tyranny of the Brahmanical priesthood which destroyed political loyalties, promoted religious superstitions, and facilitated foreign attacks.¹

William Hunter though sympathised with Indian culture highly glorified British and supported the concept of 'Pan-Britanica': Vincent Smith, who was a diehard imperialist, wrote his much famous book with the title, 'Early History of India' in 1904. It was the most comprehensive work on the history of Early India, till

1 . Sheik Ali, B. – op.cit. p. 345.

date, and perhaps the most authentic as well. He patterned his book on the line of Elphinstone, giving, much importance to kingly activities. In his introduction to the Book, Smith remarks A political history of India, if it is to be read, must necessarily tell the story of predominant dynasties... Elphinstone acted upon this principle in his classic work The same principle had been applied in this Book, attention being concentrated upon the dominant dynasties which, from time to time, have aspired to or attained paramount power.¹

In contrast to Elphinstone who upheld the view that – ‘No date prior to Alexander’s invasion can be determined precisely.’ – Smith accepts that modern research has enabled scholars to fix a considerable number of dates in the pre-Alexandrian history of India with approximate accuracy.² Emphasising the sway of religion in ancient India, he remarks, ‘The works of ancient Indian writers from which our historical data are extracted do not ordinarily profess to be histories, and are mostly religious treatises of various kinds.’³ Being a great advocate of British imperialism Smith underlined in no uncertain terms the fact that political history of India was marked by disunity, before the advent of Britishers. He says ‘But the complete political unity of India

1 . Smith, V. – Early history of India – p. 6.

2 . Ibid. p. 1.

3 . Ibid. p. 30.

under the control of a paramount power, Wielding unquestioned authority, is a thing of yesterday, barely a century old.'¹

Our survey of the earliest studies on ancient India ends with the 'Cambridge history of India series.' The general notion of these historians was to take history as a record of character and achievements of great men or in other words history was 'a chronicle of Emperors'. They took caste in its isolationist and ritualistic aspect and emphasised 'atomisation' and 'fragmentation' at social level, to be the hallmark of Indian culture. In the first volume, however edited by Rapson, many positive aspects of ancient India are brought to fore as well. Not conforming to the view point that ancient Indian history cannot be reconstructed, Rapson writes 'Regarded as a record of the character and achievements of great leaders of men, Indian history indeed is and must always remain, sadly deficient.... But fragments of facts which have been rescued from past are now sufficiently numerous and well established to enable us to construct a chronological and geographical framework for the political history of many of the kingdoms and empires of ancient India, and into this frame work may be fitted the history of social institutions which is reflected with usual clearness in Ancient literatures.'²

1 . Ibid, p. 5.

2 . Rapson, E.J. ed. The Cambridge History of India, Vol. I p. 1.

Such a monolithic interpretation of Ancient Indian history which hovered around, the Predominance of religion over political and social life, Priestly class usurping the power and prestige and enjoying the highest status, the literature of ancient Indians lacking in any historical importance, Europeans being superior to Indian inhabitants in intellectual and moral fields; were not accepted by all and sundry. E.W. Hopkins was one historian who did not subscribe to some of the prevalent notions about the past of India. Commenting upon the historical value of the Epic, Hopkins writes 'although we must repudiate as unsound any chronological deductions from Hindu Story (Epic),' it does possess 'historical worth as it is possible through this means to obtain a view of social relations.'² In the earlier phase which is reflected by the narrative part of Epic, life was rustic, more liberal and less concerned with the moral standards which marked the didactic section of Epic. This according to Hopkins was a priestly ploy so that heroes who had become legend could be made consistent with the current morality. 'With the development of morality, the priests sought to explain away the evil deeds of their heroes, for they could not with one breath exhort to virtue and with the same extol those that disregarded their rules of virtue. But the evil deeds of

1 . Hopkins, E.W.- The Social and Military Position of the Ruling Caste in Ancient India (As represented by Sanskrit Epic) – P. 14.

2 . Ibid.

their heroes' foes they allowed to remain, since these men were sinners any way, and served as types of such.¹

It is also put forward by Hopkins that to dwell exclusively upon the religious and meditative nature of Hindus, would reflect, but a partial picture of past challenging Muller's view point that 'to the Greek, existence is full of life and reality, to the Hindus it is a dream and a delusion,' Hopkins observes 'If we mean by the Hindu the Hindu philosopher and priest, this is true; but if we apply it to the Hindu at large, it is as misleading as to interpret the spirit of our earlier Europe by the writings of a Thomas a Kempis or Molinos.'² He further comments that the influence of religion was not universal, as it did not penetrate deeply into the unpriestly class.³ 'His (soldiers) life was bent on the material things of this world, as the farmer's. He was no dreamer, till the priest retouched his portrait.'⁴

In contrast to the generally accepted view that Priestly class constituted the uppermost strata of society. Hopkins takes warrior caste to be the ruling caste of India.⁵ He comments 'In looking at the State from a political point of view, we must, therefore, reverse the arrangement formally proclaimed by the priests themselves, and put their order below that of the military

1 . Ibid., p. 126.

2 . Ibid, p. 126.

3 . Ibid, p.

4 . Ibid,

5 . Ibid, p. 16.

caste. And next came the 'people'.¹ The hold priest had upon the king is not given much credence by Hopkins. He writes 'The Hindu Priests had no strength of combination. They formed no union of political power parallel to, and capable of opposing itself as a whole against, the sovereignty of the throne. It is true that they formed an association, that they were an exclusive and distinct class. But they formed no corporate body, and had no head. They worked as individuals. Moreover, their power possessed no financial basis such as that of the Roman Church. They drew no direct and constant property, contributions from the people. They were dependent on the king.'² But in the latter part of Epic that is in didactic portion his power grew. Hopkins suggests that when people's assembly got converted into a conference of warriors and priests, 'He (priest) defeated the knights in arguments, he overawed the king by his religious lordliness.'³

Like Hopkins, T.W. Rhys Davids too interprets the ancient Indian history in a seemingly unorthodox manner. In his Book Buddhist India (first edition in 1903) he attempts to 'describe ancient India, during the period of Buddhist ascendancy, from the point of view, not so much of the brahmin, as of the Rajput.'⁴ He places Kshatriya above the Brahmans⁵. At the time of Buddha

1. Ibid, p. 17

2. Ibid, p. 16.

3. Ibid, p. 106.

4. Rhys Davids, T.W. Buddhist India, p. v.

5. Ibid.p.33.

institution of caste had not yet established.¹ The colours (Varna) were not castes.² Rhys Davids also does not subscribe to the notion of 'The immovable East'. Opposing the common view that the Indians were very different from other folk in similar stages or they were more given to superstition, less intellectual, than for instances the Greeks and Romans, Rhys Davids says 'Derived partly from a too exclusive study of the priestly books, partly from reading back into the past a mistaken view of modern conditions, it cannot stand against the new evidence derived from the Buddhist and Jain literatures written, or rather composed, in independence of the priests.'³ To say that Indians of 7th century B.C. were inferior to the Europeans would not be justified because adequate historical knowledge of neither is available. Not only this Hopkins also points out, 'In some respects it would seem to be the other way. In intellectual vigour, at least, the Indians were not wanting. That Europeans should believe, as a matter of course, in the vast superiority of Europeans, not only now, but always is psychologically interesting. It is so like the opinion of the ancient Greeks about barbarians, and of the modern Chinese about foreigners.'⁴

Perhaps the more pronounced departure of Rhys Davids from the traditional historiography of ancient Indian polity, is his

1 . Ibid, p. 38-39.

2 . Ibid,p. 39.

3 . Ibid, p. 130.

4 . Ibid, p. 26-27.

view of accepting the existence of Republic Kingdoms besides the monarchy.¹ Why this important factor in the social condition of India in the 6th and 7th centuries B.C. has remained hitherto unnoticed by scholars both in Europe and in India? Is sought to be explained by Rhys Davids by his following observation, 'They have relied for their information about the Indian peoples too exclusively on the brahmin books. And these, partly because of the natural antipathy felt by the priests towards the free republics, partly because of the later date of most of the extant priestly literature, and especially of the law books, ignore the real facts. They convey the impression that the only recognised, and in fact universally prevalent, form of government was that of kings under the guidance and tutelage of priests.'² The functioning of the republics of Sakiyas is described by Rhys Davids in some detail. The administrative and judicial business of the clan was carried out in public assembly, at which young and old were alike present, in their common mote hall.³ 'A single chief – how, and for what period chosen, we do not know was elected as office-holder, presiding over the sessions, and if no sessions were sitting, over the state. He bore the title of Raja, which must have meant something like the Roman consul, or the Greek archon.'⁴ Not only at principal towns this mote hall was present in other towns as

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- 1 . Ibid, p. 1.
 - 2 . Ibid,p.1-2.
 - 3 . Ibid, p. 11.
 - 4 . Ibid, p.

well; ¹ and the local affairs of each village were carried on in open assembly of the Householders.²

The views advanced by many imperialist historians that ancient Indians lacked political vigour and had bad philosophy because of the vegetarian diet and enervating and tropical heat of Indian plains or the contact with aboriginal tribes in a semi-savage state; is not accepted by Rhys Davids. He says 'It is probable that economic conditions and social institutions were a more important factor in Indian life than geographical position.'³ This social structure of India was based upon the village.⁴ Giving a some what rosy picture of such villages, Rhy Davids remarks 'The economic conditions in such villages were simple. None of the householders could have been what would now be called rich. On the other hands there was a sufficiency for their simple needs, there was security, there was independence. There were no landlords, and paupers. There was little of any Crime.'⁵

1 . Ibid, p. 12.

2 . Ibid, p.

3 . Ibid,p. 27.

4 . Ibid, p.

5 . Ibid,pp. 30-31.

III

The Indian Response : Earliest Traces of Nationalist Historiography:

Having surveyed the general temper of the historiography of ancient Indian polity in the nineteenth century, we can quite safely conclude that whatever the school a European historian may belong to almost all of them supported the British rule in India. Even a scholar like Max Muller, who had all the praise for Indian culture and philosophy while exhorting the civil servants (bound for India) to appreciate their new assignment, says 'certainly I can imagine nothing more mischievous, more dangerous, more fatal to the permanence of English rule in India, than for the young civil servants to go to that country with the idea that it is a sink of moral depravity, an ant's nest of lies.'¹ Utilitarians and Romantics; Conservatives and liberals, all justified the 'white man's burden' either blatantly or through the finess of language. An overwhelming religion, a despotic monarch, reactionary priesthood, irrational law, stagnant society, non awareness of nationalism and Patriotism, were some of the important notions which crept in the views and writings of European scholars, whenever they tried to understand the basic characteristics of Ancient Indian Polity.

1 . Muller Max, India what can it teach us? P. 68.

Nevertheless, there were many scholars who gave a somewhat different interpretation of India's past. Thus Hopkins pronounced, 'the religious element did not penetrate deeply into the vast mass of unpriestly class,'¹ and Rhys Davids remarked, 'Vedic theosophy had indeed never been a popular faith'.² But the biggest challenge came from the Indian Scholars themselves. In the last quarter of the nineteenth century individuals like Bhagwanlal Indraji, R.G. Bhandarkar, R.L. Mitra, B.G. Tilak, R.C. Dutt, among others confronted the imperialistic ideology headlong and put forward their own view point about the Ancient Indian history in general and its polity in particular. Such scholars laid the foundation of what is popularly known as 'Nationalist historiography'.

This new school of thought, that is the Nationalist historiography, though gained momentum in the first three decades of the twentieth century, had its beginning in the writings of R.G. Bhandarkar, R.C. Dutta etc. Unlike the imperialist historians who talked of despotic government in ancient India, these early Nationalist scholars put forward the view that there was limited and constitutional monarchy in ancient India. Religion and philosophy though developed, did not stifle the secular activities. The society was not stagnant but evolved over the time, and the stratification of society which in India manifested itself

1 . Hopkins, E.W.- op.cit. p. 126.

2 . Rhys Davids, T.W. - op.cit. p. 119.

through the institution of varnasramadharma was not unique to India alone but was prevalent in other ancient civilizations as well. Similarly they also countered the hypothesis that ancient Indians did not witness the emergence of the feeling of nationalism and patriotism.

R.C. Dutt, in his introduction to 'Early Hindu Civilization' opposed the prevalent view point that Ancient India has no history worth studying, no connected and reliable chronicle of the past which would be interesting or instructive to the modern reader. He observes : 'Ancient Hindu works are of a different character. If they are defective in some respects, as they undoubtedly are, they are defective as accounts of dynasties, of wars, of so called historical incidents, on the other hand, they give us a full, connected and clear account of the advancement of Civilization, of the progress of the human mind, such as we shall seek for in vain among the records of any other equally ancient nation. The literature of each period is a perfect picture – a photograph, if we may so call it, - of the Hindu civilization of that period. And the works of successive periods form a complete history of ancient Hindu civilization for three thousand years.'

R.C. Dutt also enunciates that, ancient Indian history was not stagnant but passed through different ages or epochs. Tracing the general course of evolution in the polity of ancient India, Dutt

¹ . Dutt, R.C. – Early Hindu Civilization – pp. 1-2.

says 'History of India divides itself into several distinct and long periods or epochs. Each of these periods has a distinct literature, and each has civilization peculiar to it, which modified itself into the civilization of the next period, under the operation of great political and social causes.'¹ The hymns reflect the manly simplicity of the vedic Age; The Brahmanas reflect the pompous ceremonials of Epic Age; the Sutras reflect the science and learning and even the scepticism of the Rationalistic Age.²

Philosophers of rationalism and intellectuals supporting Radicalism, were not the monopoly of European history only, is also underlined by Dutt. 'Kapila – the Descartes of India – had startled the Hindu world by his S•mkhya philosophy, and Gautama – the Luther of India – had proclaimed a reformed faith for the poor and the lowly, and protested against the privileges of priests.'³ Drawing a parallel between the general course of intellectual movement in Europe with the same in Ancient India, Dutt writes, In Europe the scholastic philosophy of middle ages gave way to the Age of Science and reason (after such philosophers), similarly in Ancient India the elaborate trifling of the Brahmanas were impossible after Kapila and Gautam had preached.⁴

1 . Ibid, p. 4.

2 . Ibid, p. 100.

3 . Ibid,p.99.

4 . Ibid.

Caste, characterised by the privileges of Brahmans and inhuman treatment meted out to Sudras, was according to European historians, the most important factor in ancient society which influenced its polity like no other factor. Unequal treatment before law, absence of nationalism and patriotism, stark socio-economic disparity among peoples are thought to be the end products of the caste system. It was commonly assumed by the Europeans that the Origin of caste can be traced to the Aryan invasion. The aborigines once conquered were converted in helots providing servile labour to the conquerors or in other words the racial element had its role in the evolution of this institution. Emile Senarte Commenting upon the origin of Caste system, says 'Between Aryas and Sudras there was certainly an original opposition of race, more or less absolute. The interbreeding inevitable between conquerors and conquered, between invaders and aborigines, has succeeded in modifying the essential differences, but not in effacing the consciousness of the past.'¹ Early Nationalists though accept the importance of caste in the body polity of ancient India underline the socio-economic aspect of this system, more, than the racial angle. Nor do they accept the view that this institution divided the people into nations.

R.C. Dutt tries to explain the origin of the Caste system by taking into account the soft climate of river valleys which made the

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1 . Senarte, Emile – Caste in India (trans by Denison Ross) p. 121.

Aryans lose their vigour and manliness.¹ The mass of the people – the vaishyas – became more feeble than their forefathers in the Punjab and wore without a protest, the chains which priests and warriors – the Brahmanas and Kshatriyas – threw around them.² However, Dutt also points out that somewhat similar happened in European history as well, 'when the Roman empire fell to pieces, the Barbarian chiefs and Barons carved out among themselves the fairest portions of Europe, the mass of the people were devoid of political life and political freedom³.

The divisive feature of Caste system was much emphasised by the Europeans. But Dutt feels that, 'Caste reserved some privileges for priests and warriors but never divided and disunited the Aryan people.'⁴ Unequal treatment before law, meted out to different castes was very much highlighted by the European scholars. Utilitarians in particular condemned such phenomenon and cited it as a proof for the non-development of the 'rule of law' in ancient India. The Early Nationalists responded such criticism by bringing to the fore that such a phenomenon (unequal treatment before law) was not unique to India alone but was present in other parts of world as well. Dutt makes following observation, 'There was not the same law in the past ages for the Greek and the Helot, the Patrician and Plebian, the baron and the

1 . Dutt, R.C.-op.cit. p. 6.

2 . Ibid,p.7.

3 . Ibid. p. 138

4 . Ibid,p.141.

serf, the monk and the layman.... And as in other parts of the world, so in India too, we find inequality in laws among the different classes of the people. There was one law for the Brahman, another for the Sudra; the former was treated with undue leniency the latter with excessive and cruel severity.’¹

Ibid, p. 206.

A Review of the imperialistic phase

A perusal of the earliest writings on ancient Indian history, quite clearly indicates, that such a historiography often acted as a tool for the British imperialism. For the imperialist historians, Indian society was stagnant, laws were unscientific, religion and philosophy were dogmatic and irrational, and polity was despotic and exploitative. Reason, progress, humanism and science which had transformed the contemporary European society, were concepts totally alien to the Indian Mindset. It is a great paradox that thinkers like Mill, who was a champion of rationalism and firmly believed in the progress of human society did not apply the same principles while analysing the past of India. The moot question, thus confronting us is, what were the historical compulsions which resulted in such a biased and critical review of ancient India. ?

It is generally felt, that, British imperialism which was based on ruthless exploitation and insatiable greed, sought its justification by giving a one sided account of early India. History was thus reduced to be a hand maid of the present. If it could be established that Indian culture was unprogressive and its people backward oriented, then the concept of 'white man's burden' acquires a legitimacy. Romila Thapar aptly remarks 'these stereotypes are related to the needs of imperialism, for economic

imperialism had its counterpart in cultural domination. Historical writing coming from this source aimed at explaining the past in a manner which facilitated imperial rule.¹ The close nexus between the history writing and the British imperial rule is also underlined by R.S. Sharma when he observes, 'If Indians were essentially philosophers, absorbed in the problems of the spiritual world, it followed that their material world should be managed for them by their imperial masters. If Indians were accustomed to autocratic rule and never had any idea of nationhood, state or self government, it was in keeping with their tradition that they should be ruled autocratically by the British Governor – General and viceroy,'²

'Industrial-revolution' unleashed a process, which changed the society and polity of Europe in an unprecedented manner. The new society with all its scientific glory and economic prosperity was also characterised by contradictions. Thus, the great prosperity and comfort enjoyed by a privileged few, existed juxtaposed with the misery and wretchedness of the masses. A factory works had to work more than 14 hours a day under extremely pathetic conditions. This resulted in the feeling of alienation among the majority of the people. The rich and prosperous, though enjoyed a better life, had their own, share of guilt and remorse. The newly emergent neorich found it very difficult to justify the human misery

1 . Thaper, R, - The past and prejudice p. 4

2 . Sharma, R.S. – Aspects of political ideas and institutions in Ancient India p. 2

of the poor and unprivileged section of society. Under such circumstances, the views and notions of scholars like Locke, Mill Bentham, Adam Smith, Ricardo, Malthus and many others, acted as a soothing Balm. These thinkers though called for the betterment of masses and limitation in the powers of government also pronounced that misery and poverty were transitory. Over emphasis on individual liberty and free enterprise was often used to justify the exploitation. These historians, in all probability while interpreting the past of India resorted to the same practice of providing justifications for the British rule. Romila Thapar, to quote her once again thus writes, 'James Mill's emphasise on legislation as a catalyst of change suited the British policy makers. This was, in a sense, a sanction to the British administration to legislate change in its own interests. Mill's criticism of what he called the Hindu system of taxation, which according to him, did not provide for either free trade or the free play of capital, also met with the approval of those who were formulating British economic policy in India.'¹

Not only were the views and attitudes of these early indologists prejudiced and biased but the methodology adopted by them, also betrayed many shortcomings. Scientific collection of Data and their dispassionate analysis was not given much premium. The age of positivism, which highly influenced the

1 . Thapar Roimla – op. Cit. p. 10

writings of clay European scholars, had its own drawbacks. Social physics as Auguste comte called it (social sciences and humanities) relied heavily on the empirical collection of fact which was thought to speak by itself. In such a methodology, the physical act of collection was considered to be more important than the analysis and interpretation of the data. Thus the literary sources for the study of ancient India were not critically analysed and examined. After the middle of the nineteenth century, translation and edition of various vedas, Brahamanas and Dharmasutras were supposed to provide immutable data about ancient India. These Brahmanic sources were not analysed critically, nor was any attempt made to correlate the socio-economic condition with the information gained from these sources. Early indologist failed to realise that these were the works of the priestly class and thus religious and spiritual in nature. Rhys Davids, underlines such anomaly when he holds that many shortcomings of early scholars were mainly because they relied exclusively on Brahmin books.¹ Given such a condition it would not require much effort to realise that any generalisation based exclusively on such data would definitely colour one's vision about the past.

Nevertheless, to conclude that all the 'orientalists' were 'Dogmatic' and 'reactionaries' who pronounced their theories so that British rule can be perpetuated would be too simplistic a

1 . Davids Rhys – op cit. p. 1

generalisation. There were scholars like max Muller and Rhys. Davids who had a very high opinion about the culture of ancient India. Max Muller would announce that India.. was a very paradise on Earth'¹ and upheld the view that we all come from the East.'² Similarly Rhys Davids countered the notion that Indians were more 'superstitions and less intellectual.'³ Writings of such historians, who had such lofty ideas about the early India, if at times indicate some prejudices it was but inevitable. The least that can be said is that however great a historian one may be, he cannot overcome his socio-economic milieu. The age of 'Enlightenment which made 'reason' and intellect, the last arbiter in the quest for knowledge and the industrial revolution, which symbolised the triumph of man over nature, filled the western world with self confidence and optimism. The oriental world which did not witness the growth of 'science' and technology' was thus taken to be 'insular' and 'backward' looking. Any scholar from the occidental apart of the world was thus, naturally tempted, not to appreciate the socio-economic institutions and cultural ethos of eastern nations.

1 . Muller Max – India what can it teach us.? P. 6

2 . Ibid. p. 29

3 . David Rhys. – op cit. p. 130

Section II

The Nationalist Phase (1900-1950)

CHAPTER – II

A BIRD'S EYE-VIEW OF NATIONALIST STAND POINT

The advent of twentieth century witnessed the emergence of a new school of historians, more commonly known as 'Nationalist Historians'. These scholars not only ventured to interpret the past in a novel way but also gave a clarion call for the necessity of more intensive Research in Ancient Indian History. Study of 'Polity' and 'political thought' of Ancient India received altogether a new impetus so much so that for a while 'culture' and 'Religion' went into the background.

Nationalist scholars, if traversed the intellectual arena with a sense of 'urgency' and 'excitement', their European counterparts effused 'professionalism' and 'diligence'. Unlike the first generation of thinkers, who were swayed by intense Racial superiority the twentieth century European historians, it seems, approached their subject matter with certain amount of 'sympathy and 'respect'. The growth of modern scientific spirit of investigation, which held that all objects and ideas form links in a series and present cannot be understood without reference to the subject matter, became the general guiding principle. Such scientific methods were applied in Indian context also. The view that Indians had no sense of history was no more given credence. "This gibe, not quite justifiable even

when it was uttered, would not be repeated at the present day. It has lost its point. It is no longer even approximately true.”¹

Even though, it was granted that Indians did possess a sense of past, it was still assumed that Indians of antiquity were not aware of ‘polity’ as an independent human endeavour. “The little we can construct about the political past of Ancient India is, mainly concerned with ‘chronology’ and ‘geographical’ extent of many kingdoms and empires,” seems to have been a Prevalent notion among most of the European scholars. The growth of ‘Political institutions’ and concepts like citizenship, Nationality, Patriotism, state, law etc. were totally alien to Ancient Indian mind. In the same vein Vincent Smith observes’:

“The political history of India cannot view with that of Greece, Rome or modern Europe as illustrating the evolution of constitutions in city or state. Indians like other Asiatic peoples, Usually have been content with simple despotic rule so that the difference between one government and another has lain in the personal characters and abilities of the several despots rather than in the changes consequent upon the gradual development of institutions.”²

1 . Rapson, E.J. edit,- Cambridge history of India Vol. I – Preface – p. 1.
2 . Smith V.A. – Early History of India – P. 500.

NATIONALIST HISTORIOGRAPHY : IT'S NATURE

Nationalist Historiography was essentially a response against the western pronouncement of certain 'Stereotypes' to understand the past of India. Notions like 'Asiatic Despotism', 'Predominance of religion on politics', were vehemently opposed by these early Nationalist historians. If Divinity associated with Kingship, was taken to symbolise the influence of religion on politics, Indian scholars pointed, that such a phenomenon was not peculiar to Ancient India only, but was present in other ancient civilizations like Egypt, Mesopotamia etc, as well. Moreover it was emphasised that Divinity was associated with the origin of kingship but never resulted in the concentration of absolute power into the hands of a king. No Hindu Polity or law ordain Divine right though it may propound Divine origin of kingship.¹

Besides being a reaction against the imperialistic ideology it seems that the 'genesis' and 'growth' of the Nationalist historiography was guided by the trends of National movement. A Historian, like any other social scientist is a product of his socio-economic environment. Indian National Movement which was so over reaching in its impact that it changed the 'views' and 'behaviours' of millions of Indians, could not but influence the

1 . Bhandarkar, D.R.- Some Aspects of Ancient Hindu Polity. P. 145.

history writing in a big way. Mass movements require beside other things, an 'ideology' to counter the myths propounded by the imperialists. The myths of unchanging society, stagnant law, apolitical Nation etc. were challenged by Indian scholars. At a time when the Indian self esteem was at its lowest ebb, these historians infused new energy into the people. The glorious past of India was brought into light and the theory of white man's burden was negated.

R.S. Sharma draws a parallel between the trends of National movement and its impact on the historiography. Just as there were two facets, moderate and radical, in the growth of National Movement, so also there were two such phases in the progress of research on Ancient Indian Polity.¹ The National movement in its earlier phase was mainly concerned with limiting the powers of British government. It demanded for greater representation of Indians in the government, and also sought the active intervention of Government in ameliorating the condition of masses. Correspondingly the early nationalist historians emphasised upon the fact that, Government in Ancient India was a limited monarchy, the state was like a trust and king was its trustee, and the most fundamental duty of kingship was, beside providing for protection, the intellectual, moral and material upliftment of the people.

1 . Sharma, R.S. – Aspects of Political ideas and institutions in Ancient India , p. 3.

Countering the notion that caste which is based on purity and privileges is a unique feature of Indian civilization, R.C. Dutta says 'The clergy,' the knighthood and the people of Europe in the middle ages answered in some respects to the Brahmanas, the Kshatriyas and the Vaishyas of India."¹ Regarding the inequality before law dutta observes that it was prevalent in Ancient Greece, Rome and medieval Europe as well.² Puranendu Narain Singh refuted, what Auckland calvin had earlier said, "The British have taught for the first time that the end and aim of rule is the welfare of the people, and not the personal aggrandisement of the sovereign."³

The Divisive policies of Lord Curzon, which culminated in the 'partition of Bengal in 1905, gave further impetus to research in Ancient Indian Polity."⁴ The Extremist phase which dominated the course of Nationalist movement since then, relied heavily on 'self help and resurgence of pride' in the glorious culture of Ancient India. People were asked to take active part in National movement and be ready to sacrifice their lives for the Mother land. A.C. Das pointed out that "it was not absolute but limited Monarchy that flourished in India."⁵ and thus sought to prove that it is a mistake

1 . Dutta, R.C. – Early Hindu Civilization, - p. 138.

2 . Ibid, p. 206.

3 . Quoted – in R.S. Sharma's – op.cit. p. 3.

4 . Sharma, R.S. – op.cit. p. 3.

5 . Quoted in R.S. Sharma's – op.cit. p. 3.

to suppose that the Hindus have been accustomed to an autocratic form of government.

The discovery of Arthasastra of Kautilya in 1905 and its publication in 1909 by R. Shamashastry proved to be an “epoch making” event as R.S. Sharma says, in the history of the study of ancient Indian Polity.¹ Such a discovery not only proved the existence of ‘independent schools of polity’ even before Mauryan period, but also demonstrated that ‘the religion could influence politics only to a limited extent.’ These Aspects of Ancient Indian Polity were repeated again and again. “The Arthasastra, is a unique record of the secular and practical activities and achievements of the Hindu genius as distinguished from the intellectual and spiritual, of which there is so much evidence in the extant Sanskrit and Pali literature”.² Similarly the Nationalist historians were now in a better position to defend themselves against the sweeping generalisation of Europe regarding the dominance of religion over politics. Opposing the views of Hopkins that sovereign was subjected to the wills of priest, N.N. Law remarks: ‘Though the royal priest exercised much influence with the king, yet he was debarred under the constitution from prevailing over him to follow in political matters decided on by the

1 . Ibid, -p. 4.

2 Mookerjee, R.K. – In Introduction to studies in Ancient Hindu Polity. By N.N. Law. P. ix.

state council.¹ Most of the works on Ancient Indian Polity, after the publication of Arthashastra were basically the interpretations of concepts like, Definition of State, Nature of state, features of Governmental machineries, etc. as depicted in Arthashastra.

Two important characteristics of Nationalist historiography which can be perceived from their writings are,

- (i) Many of the Modern days concepts were projected to be existing in Ancient Indian Polity.
- (ii) Similarities were established between the features of Ancient Indian polity and its counterpart in the western world.

K.P. Jayaswal is often regarded as the tallest among the Nationalist historians. He eulogised the past of India in no uncertain terms. He propounded that Democratic elements could be traced in Ancient Indian polity in the working of Vedic assemblies. 'We find from the vedas that National life and activities in the earliest times on record were expressed through popular assemblies and institutions.'² The procedure employed to arrive at decisions in such assemblies, were akin to modern days of parliamentary functioning. If a matter entailed a division in the opinion of members, speeches were made and the procedure –of-

1 . Law, N.N.- Aspects of Ancient Indian Polity – p. 49.

2 . Jayaswal, K.P. – Hindu Polity – p. 12.

majority was observed.¹ Republics were present in Ancient India besides Monarchy. Constitutionalism or the supremacy of law which governed the ruler as well as the ruled, was presumed by the Nationalists as an important feature of Ancient Indian Polity. There was the all powerful law, the common law of the Hindus, which is declared again and again to be above the king and as the king of kings.² Jayaswal also opined that Taxes were fixed by law;³ Judiciary always remained separate from executive;⁴ The State was a Trust which was created for the prosperity of the people.⁵

The lead given by Jayaswal was followed by a host of scholars like P.N.Banerjee, K.V. Rangaswamy Aiyangar, R.C. Majumdar, N.N.Law, B.K. Sarkar, N.C.Bandopadhyaya, U.N. Ghoshal, D.R. Bhandarkar, V.R.R. Dikshitar and so on. These historians being inspired by the Nationalist ideology were very keen to demonstrate such aspects of Ancient Indian Polity which could generate pride and respect towards our ancient institutions and values. State in Ancient India was a 'Constitutional Monarchy'⁶ for P.N. Banerjee whereas Dikshitar terms it 'Democratic Monarchy'.⁷ Opposing the proposition that Indian society which was divided into many water tight compartment by caste system,

1 . Ibid, p. 91.

2 . Ibid, p. 310.

3 . Ibid, p. 319.

4 . Ibid, p. 310.

5 . Ibid, p. 342.

6 . Banerjee, P.N. – Public Administration in Ancient India, p. 51.

7 . Dikshitar, V.R.R.-Hindu Administrative Institutions – p. 71.

Majumdar says that 'spirit of cooperation was a marked feature in Ancient India.'¹

It seems paradoxical that the same scholars, who opposed the imperialistic ideology would often prove that the contemporaneous and European values' could be traced in Ancient Indian ideas and institutions. Thus Banerjee pointed, that the joint family of Ancient India was in fact very similar to the 'Societas universorum bonorum' of the Romans,² or the 'state of Nature' depicted in Brahmanical and Buddhist literatures find mention in the writings of Milton, Hobbes, Locks, Rousseau,³ Bhandarkar asserts that, the definition of state as given in Ancient Indian literature on polity is very similar to ones propounded by the modern authors of Political science like Stephen Leacock J.N. Bluntchli and R.G. Gettel.⁴

Besides these general works on polity, there were many other books and articles which dealt with special topics like Local Self Government, inter state relations, principles of Taxation etc. Such works too, endeavoured to highlight the brighter sides of Ancient Indian Society which could generate self confidence and self Respect among the masses of India. It was sought to be demonstrated that the people in Ancient India was not indifferent

1 . Majumdar, R.C. – Corporate life in Anc. India. –pp.1-2.

2 . Banerjee, P.N. – op.cit. p. 24.

3 . Ibid, p.p. 35-36.

4 . Bhandarkar D.R. – Some Aspects of Ancient Hindu Polity p. 66.

to political affairs, but actively participated in these activities via local bodies. These local bodies as Majumdar says, enjoyed a 'large degree of autonomy'¹, whereas the election of committees of village Assemblies illustrate ultra-democratic character of these village corporations.² R.K. Mookerjee when remarked that the empires in Ancient India were possible because of the local bodies only.³ He was infact calling upon the British government to decentralise the powers of state, as it was a marked feature of ancient India. 'International Law' so important a concept in Modern world politics, was according to scholars like Banerjea, Viswanatha in a developed stage in Ancient India. War, peace and neutrality the accepted division of modern international law were there in Ancient India.⁴ International law in Ancient India, being based on Dharma, was accepted by all the Indian states as the principles of Dharma were adhered to in all parts of the country.⁵ The wars in Ancient India were generally humane and the wholesome destruction and devastation were forbidden.⁶

The Review of works on Ancient Indian Polity in between 1910-1925, would reveal that the Extremist phase of National movement had a lasting effect on history writing. Scholars not

1 . Majumdar, R.K.- Op.cit. p. 172.

2 . Ibid, p. 167.

3 . Mookerjee, R.K. - Local Government in Ancient India p.

4 . Viswanathan, S.V.-International Law in Ancient India p. 26.

5 . Ibid, p. 4.

6 . Ibid, p. 126.

only acted as a "professional historians" who were interested in unravelling the Past, but often served the purpose of an 'activist' who was on a mission to propagate the feeling of Nationality and patriotism. If most of them proved, that the Government in Ancient India was 'limited' and concerned with the 'welfare' of masses, they had two motives in their mind. One the one hand, it was sought to establish, that the prevalent European notion, of Indians being totally unconcerned with their polity, was far from truth and secondly they called upon the people to have pride in our ancient legacy. In other words, the ideological supremacy which the Britishers had established over the Indians, was given a dent by such writings. R.S. Sharma observes that 'general works on polity during 1916-25 reveals a marked tendency to place an ideological weapon in the hands of Indian Nationalists.'¹

The third phase of National movement, which begins with the advent of Mahatma Gandhi, in all probability, had its own impact on the history writing., The National movement which uptill now was confined to a few sections of society was transformed under the leadership of Mahatma Gandhi, into a mass movement. Relying heavily on 'innerstrength' Gandhiji called for patience, reconciliation, Nonviolence and truth. 'Critically examining', oneself was perhaps the basic teaching of Mahatma Gandhi's social

1 . Ibid,

reconstruction, which involved the upliftment of depressed classes and creating a feeling of brotherhood among different castes and religions, was taken with urgency.

This period also witnessed the emergence of leaders like Nehru, Bose, Ambedkar, and so on. Nehru who was very much influenced by the Russian revolution, tried to infuse the ideas of Socialism in the National movement. 'Science' and 'Reason' said Nehru were the means of overcoming the ills of Indian society. Ambedkar criticised the caste system as the biggest impediment towards National resurgence.

Another important factor which seems to have affected the historiography of post 1925 was the changes in British policies towards India. Deceit, false propaganda and intense hatred, resorted to by Britishers during the first world war against their adversaries, gave a body blow to 'moral supremacy' of Europeans which was often employed as a ploy to exploit the colonies. Having lost the moral ground the British government now realised that some concession had to be given. New promises were given by the government with regard to the 'Self Rule' and constitutional reforms commissions were established. Such moves, along with the rise of National movement in other parts of world, left its mark on History writing though in a very subtle way. 'Sense of urgency'

which was a marked feature of earlier writings was replaced by 'patient analyses of facts ' before formulating any hypothesis.

Under the impact of these changes many historians observed that the 'institutions' and 'value systems' of Ancient India were different to those of Europeans, as the socio economic environment were not the same. The peculiarities of Indian culture were accepted and given a rational and logical explanation. Beni Prasad pointed out that 'thought does not originate in a vacuum and social and political thinking is intimately related to social and political milieu in which it originates.'¹ Instead of drawing vague anomalies between Indian and European ideas and institutions scholars like Beni Prasad endeavoured to explain the uniqueness of Ancient Indian political theories in terms of its geography, racial characteristics social and economic conditons.² Similarly U.N. Ghosal viewed, the 'Indian genius' which was a mixture of 'spirituality' and 'intellectuality' shaped the growth and development of our ancient social and political theories.³ Not only were the Indian institutions logically explained but were often critically analysed. The division of society on the basis of caste system, was according to Dikshitar 'based on well grounded scientific and economic principles and served their purpose very

1 . Beni Prasad – Theory of Govt. in Ancient India ,.p. xiii.

2 . Beni Prasad – The State in Ancient India – p. 3.

3 . Ghoshal, U.N. – A History of Indian Political ideas – p. 3,4.

well for several centuries.”¹ Such an interpretation of Caste system was criticised by Beni Prasad. He said, caste, apart from the fact that it ruled out democracy or aristocracy² also strikes at the root of individuality.³ Caste is the negation of dignity of man as man.⁴ “Hence, there was no effort in the history of Hindus politics to define the spheres of individuality on the one hand, and the group or state on the other hand. Laissez faire had no basis in Ancient India”.⁵ Such an analysis of caste echoed the feelings of leaders like Ambedkar. It also reflected the Gandhian approach of drawing different sections of society into the National mainstream. This type of criticism about caste was not just a barren intellectual exercise, but was in fact an awakening call given by a historian to amend the drawbacks within the system with the needed urgency.

Many changes occurred during the first half of twentieth century in the field of Science and humanities. Developments in the field of human psychology, New findings in Anthropology, use of scientific methods to establish the authenticity of archaeological data etc. led to a more comprehensive and analytical study of Past. Indian Historiography also witnessed some changes in consonance with new findings. Utility of

1 . Dikshitar, V.R.R. – op.cit. p. 38.

2 . Beni Prasad – The State in Ancient India p. 11.

3 . Ibid, p. 11.

4 . Ibid, p. 12.

5 . Ibid, p. 12.

archaeology in reconstructing the Indian history was emphasised in no uncertain terms, Basing his study of political institutions on the inscriptions, Beni Prasad observes 'Here the actions of numerous kings, officers, private individuals or groups are recorded by contemporaries, with reference to the social, economic and political circumstances of the times.'¹ Views of A.S. Altekar seem to have some reflections of anthropological findings. He regards that 'Institution of joint family gradually led to the evolution of kingship.'² Principles of 'evolution' which was used in Biology and social sciences was often employed to explain the changing characteristics of ideas and institutions in Ancient India. It was generally accepted by the Nationalist historians that vedic polity was tribal which transformed itself into territorial institution and gradually assumed the form of a large centralised Bureaucratic set up during the Mauryans.

A perusal of the writings of early nationalist historians indicate that these scholars made immense contribution towards reconstructing the past of India. These zealous pioneers not only helped in generating among the masses an awareness about the cultural and political heritage of India but also pronounced new methodology for the students of history which was based on the principles of modern historiography. But a closer scrutiny of such

1 . Ibid. p. 15

2 . Altekar, A.S. – State and Government in Ancient India – p. 35.

writings reveal that, certain short comings could be traced in the perceptions of such modern historians. Some of the drawbacks are underlined by scholars like Beni Prasad and P.V. Kane who themselves belong to the school of Nationalist historiography.

Beni Prasad thinks that, 'the Hindu system of administration has not yet received adequate scientific treatment.'¹ He did not appreciate the prejudiced view point of Western scholars but he also criticised the methodology and notions of scholars like Jayaswal. He raises many objections against Jayaswal's attempt of tracing modern days' democratic ideas and institutions in ancient India. Beni Prasad observes, Basis of these hypotheses is rather narrow that is they rest on a very small number of passages in Hindu literature and Greek accounts and a yet smaller number of inscriptions which are more than counterbalanced by numerous other passages and inscriptions.² He also points out that authenticity of some of the passages and their interpretation is also questionable.³ Many of the conclusions in question have been reached by combining data from widely distant epochs; to discuss the evidence of the vedas and Brahmanas in the same breadth with that of Sukraniti is a violation of the canon of historical criticism.⁴ Regarding the approach of such historians,

1 . Beni Prasad – The state in Ancient India – p. 498.

2 . Ibid, p. 499.

3 . Ibid, p.

4 . Ibid,

Beni Prasad says, 'some of the conclusions of recent writers do not harmonize with what we know with certainty about the intellectual influences, social institutions and economic conditions of ancient India. Real democracy, for instance, could not be reared on the social chasms of caste. Nor could a national assembly of 'country folk' function regularly in a large area which was split up into thousands of villages and which lacked the modern means of communications.'¹

Most of the Nationalist historians were in general, inclined to establish a parallel between the ancient Indian political ideas and their counterparts in the modern western world. Such an approach even though a reaction to western propaganda, is not appreciated by Kane. He observes, both characterisations are in my opinion misleading.² Continuing further he adds 'it will do no good to label the ancient institutions of India with concepts and terms current in the west during the last one hundred and fifty years or so. Kane also writes 'even in the west true democracies or real democratic governments did not exist and the masses in no country had elective popular assemblies or councils before the last quarter of the 18th century. Such assemblies do not exist even now in several countries of Europe. Even in the ancient Greek city states the number of slaves who had no voice in the government

1. Ibid, p.500.

2. Kane, P.V. – History of Dharmasastra, Vol. III. P. 15.

was several times as large as the free citizens and those states were no democracies at all in the strict sense.’¹ In the same vein he further remarks, ‘India need not feel ashamed or fear a comparison of its ideals and theories of state with the ideals and theories of western countries in ancient and medieval times.... The ancient Hindus made their own contributions to political thought, though unfortunately western scholars of the 19th century like Max Muller, Weber, Roth were concerned mostly with the vedic and allied literature and either did not know or ignored the vast literature on politics contained in sanskrit and Pali works.’²

Besides the lack of scientific approach and the tendency of carrying the present into the past, the views of most of the Nationalist historians about the Varna Vyavastha often counters their avowed modernistic tendencies. While analysing the Caste system many scholars point that it betrays the scientific approach. The four fold division of society was thought to create social stability, diminish individual and group competition, provide economic security. Coomaraswami thinks that, ‘Each caste or trade possessed an organisation largely socialistic in character embodying democratic and communistic ideas.’³ Even though such a system was not common to India alone, it can be argued that no where did it become so overwhelming and all

1. Ibid,

2. Ibid, pp. 15-16.

3. Quoted in V.R.P. Dikshitar's op.cit. p. 329.

encompassing as in ancient India. In other societies like that of Greece there was vertical division of classes into water tight compartments, where the disadvantaged section was kept away from the national community. Within the community however the division if present was not so severe. Thus slaves in Greece did not constitute a part of the civic society. But in ancient India society was divided from within. Sudras were never thrown out of the ambit of Society and yet denied any advantage of being a member of the community. Sudras though exploited to the hilt were morally and legally compelled to live with their fate. Being a member of the society they were but duty bound to safeguard the system at whatever cost it may come for. Such a system did not allow the sudras to transform themselves into a distinct class and develop class consciousness. Thus in Greek and Roman history there are many historical instances when slaves raised the banner of revolt and sometimes could extract certain socio-economic and political benefits as well. But in India's history sudras never raised a revolt.

Such a system of castes, not only acted against the dignity of human being, as put forward by Beni Prasad but also prevented the development of the principle of Laissez- Faire.¹ Scholars like Dutt, Dikshitar, Banerjee among others thinks that supremacy of Brahmanas was based on their intellectual and spiritual

1 . Beni Prasad The State in ancient India – pp. 11-12.

accomplishments and thus in a way deserved the privileges and immunities granted to them. Here it may be pointed out that privileges for Brahmanas were the result of their collusion with the Kshatriya class. These Two classes combined to exploit the masses. In such an association Brahmanas invented religious, ethical, philosophical, and mystical dogmas to safe guard this exploitative system. Principles of Karma, rebirth and Dharma were often but ploys into the hands of the upper classes. R.S. Sharma while discussing drawbacks of the writings some of the Nationalist scholars, points out that undue importance given to ancient Indian Institutions 'often gave us a false sense of past values'. It glossed over the fact that, whether it was monarchy or republic, the two upper varnas dominated the two lower varnas, who were generally excluded from all political offices.... It did not pay attention to the fact that the ruling class consciously exploited religion for the promotion of their political interests.'¹

Notwithstanding such shortcomings no one can deny the contributions of the Nationalist historians. It seems they were guided by the twin objectives of generating self esteem of Indians and help preparing ground for reform of the present ills. As historians they unraveled the past of India and endeavoured to give a new interpretation of available historical data . But they

1 . Sharma, R.S.-Aspects of political ideas and institutions in Ancient India. P. 12.

were also influenced by the National movements and consequently tried to generate a feeling a pride towards our ancient values and institutions. Another positive outcome was that many ancient manuscripts and inscriptions were discovered. Some historical sites were excavated and altogether new version about Ancient Indian Polity was put forward. But sometimes in their overzeal, these Nationalist historians viewed the image of modern democratic values and institutions in the ancient Indian polity. Such an exercise, it seems often militated against the objective writing of history. However, when the adversary (British govt.) was so awesome and the task (independence of India) so ambitious, such aberrations are but inevitable.

II

CHARACTERISATION OF ANCIENT INDIAN 'POLITICAL THOUGHT'

Political thought does not originate in a vacuum. It is invariably associated with the socio-economic conditions, cultural traits of the people, and the geographical uniqueness. This was fully realised by the Nationalist historians, and as such they attempted to delineate the features of Ancient Indian political thought by underlining the distinctive characteristics of Ancient Indian personality. The Nature and working of Hindu political institutions were largely affected by geography, racial characteristics, social organisation and economic conditions.¹ It was also emphasised by some scholars that it would be futile to compare Ancient Indian political ideas and institutions with that of Europe as the socio-political mileus of the two were different. To quote Beni Prasad once again 'Hindu political thought is different from its western counterpart, as the Hindu personality, temperament and outlook are different from what one finds in western Europe.'²

U.N. Ghoshal points out that it was the distinctive characteristics of 'Indian genius' which had the greatest influence

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1. Beni Prasad – The State in Ancient India – p. 3.
 2. Beni Prasad – Theory of Govt. in anc. India.

on Ancient Indian Political thought. Spirituality, intellectuality and vitality, were the three qualities of Indias 'ancient spirit and characteristic soul.'¹ Spirituality led to the conception of Righteousness as the essence of kingship, besides leading to the idea of a 'welfare-state' and identification of ruler with his subjects.² Doctrine of the supremacy of Law of the social order; multiple basis of the authority and obligation of temporal reflected in the branches of State Law, the law of Penance, and the rules of ceremonial purity; and the use of Expediency with ethics as the basis of statecraft; reflect the influence of intellectuality.³ Continued existence of political theories for a period of nearly three thousand years along with the fact that Indian political ideas and concepts are spread over nearly the whole field of our extensive literature, are the result of intense vitality of Indian life.⁴

Indian temperament, according to Beni Prasad, displays an emotional flow and vibration, which along with imagination (another leading characteristic of the Indian Psychology) militates against rigidity of discipline and organisation.⁵ This tendency is reflected in religious, social, economic and political life of ancient

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- 1 . Ghoshal, U.N. – A History of Indian Political ideas p. 4.
 - 2 . Ibid, p.4.
 - 3 . Ibid, p. 5.
 - 4 . Ibid, p. 5.
 - 5 . Beni Prasad – Theory of govt. in Anc. India p. 2.

India. Thus there never arose any ecclesiastical organisation like Roman Catholic church or Anglican Church.¹ In economic life too, the organisation was never so strict in India as in Europe. The guilds essentially local in character, were never well knit together.² In the political conditions which obtained in Ancient India, this habit of loose organisation would lend to produce a sort of federalism or feudalism.³ Metaphysical turn of mind and intense love for logic are other important traits of Indian Personality.⁴

Religion greatly influenced the science of polity in Ancient India. It was accepted by the European Scholars as well as by their Indian Counterparts. For Europeans Religion symbolised dogmatism, irrationalism, and undue interference of Priestly class in Ancient Indian polity. Religion was often taken as a pretext to denounce the Ancient Indians as totally unconcerned with the political activities. Thus Bloom field observes "religions institutions controlled the character and the development of its people to an extent unknown elsewhereThere is no provision in such a scheme for the interest of the state."⁵

Nationalist historians on the other hand give a different interpretation of Religion. The ethical part of religion was

1. Beni Prasad. The State in Ancient India – p. 10.

2. Ibid, p. 11.

3. Ibid, p. 11.

4. Beni Prasad – Theory of Govt. in Anc. India. –p. 2.

5. Quoted in D.R. Bhandarkar's some aspects of Anc. Hindu Polity. P. 2.

emphasised by them. P.N. Banerjee remarks that 'Dharma' which is usually rendered in English as 'religion', has a wider significance. It includes the ideas of virtue, Piety, duty and law.¹ Analysing the relation between Religion and polity Beni Prasad makes this observation "Religion sought to direct the life of the rulers as of the rest of the community. It inculcated charity, gentleness and promotion of popular happiness on the part of the king. It held a spiritual ideal before the state. It could serve as a moral check on the despotism."² Divinity which is often found to be associated with kingship, is not an unique feature of ancient India alone. Bhandarkar³ and Ghoshal⁴, among others point that such a phenomenon was found in other ancient civilizations like mesopotamia, Egypt etc., as well. Moreover Divinity though associated with king's origin was never extended to 'Divine right' of kings, as was witnessed in other parts of the world. No School of Hindu polity or law, though it may propound the divine origin of kingship, does either acknowledge the king's rule by divine Right, or consider his person as divine.

Over-influence of religion on Ancient Indian political thought, has also been explained in terms of the predominant position enjoyed by Priestly class. From the didactic portion of Epic, Hopkins infers, the wholesale subjection of the sovereign to

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1. Banerjee, P.N. – Public Administration in Anc. India. P. 275.
 2. Beni Prasad – The State in Anc. India – p. 13.
 3. Bhandar. D.R. – op.cit. p. 145.
 4. Ghoshal, U.N. – op.cit. pp. 540-542.

priests' will in all matters including political.¹ But many Indian thinkers regard, that it was not due to Brahmana's proximity with the royal authority but the result of his intellectual and spiritual superiority. Thus N.N.Law observes 'Causes of extension of authority of Brahmanas are to be sought not on their influence upon king but upon the hold Brahmana had over the intellect of the Nation.'² Similarly Dikshitar says 'The social ascendancy, if a real fact, is due to srotiatvam i.e. learning and force of character, and to nothing else.'³ But Beni Prasad has a somewhat different interpretation, when he opines 'This lack of organisation (an important characteristic of Indian Personality) goes a long way to discount the Brahmanic claims to supremacy which fill Brahmanic literature. Whatever the theorists might say the fact remains that the Brahmanas had no organisation, no independent financial resources, no effective means of resisting a king.'⁴

Influence of Ethics on the nature of political thought has been accepted by Nationalist historians as important feature. Indian social thought has a pre-eminently ethical motive.⁵ It has been emphasised that one of the most important functions of state in Ancient India, was the moral upliftment of people and preservation of varnashrama dharma. "State must consciously

1 . Quoted in N.N. Law's – Aspects of Ancient Indian Polity – p. 49.

2 . Ibid, p. 49.

3 . Dikshitar, V.R.R. – op.cit. p. 122.

4 . Beni Prasad – The State in Ancient India – p. 10.

5 . Beni Prasad – Theory of Govt. in Anc. India. P. 4.

and actively stimulate virtue and guide the moral life. It must regulate the social order and keep all to their duties. No governmental action can extend to the inner thoughts and motives of man but Hindu theory wants the state to ally itself with forces and influences which touch the springs of action.”¹

U.N. Ghoshal emphasises upon the fact that instances of ethical values, forming the basis of political thought in ancient India, can be found in galore. The beginnings of the conception of justice or righteousness in its application to the state and society may be traced back to the vedic literature.² In the Mahabharat and Smriti this principle becomes more pronounced. Ghoshal observes, ‘In the Mahabharat Bhishma and his authorities, justify the application of righteousness to the affairs of government, declare righteousness to be the essence of kingship, and they further explain how the king’s attitude towards this principle is attended with profound repercussions on the individual and the community through its influence upon man’s physical environment.’³ But Ghoshal also underlines the fact, that the ethics constituting, the base of political theories, was relative to the law of social order and political exigencies. He remarks, ‘while the early smritis justify killing of foes in battle in accordance with the law of the kings

1. Ibid, p. 4.

2. Ghoshal U.N. A History of Indian Political ideas P. 534.

3. Ibid.

order, Bhishma in Mahabharat applies the standards of expediency to certain phases of his statecraft of dubious morality.¹ Unlike Barhmanical sources, Buddhist canons, in view of Ghoshal advocated the application of ethical values to politics in unequivocal terms. The theories of the Buddhist canonists in contrast with those of their Brahmanical rivals involve the absolute and unqualified application of the principle of righteousness.²

Caste, the very basis of Indian social order, also, greatly influenced its political thought. Division of society into privileged and under privileged classes had been, according to many scholars (mostly Europeans), the greatest impediment towards the formation of a civic community in Ancient India. But most of the Nationalist historians have a different interpretation. It was pointed out by scholars like shamasastri,³ Altekar⁴ and many more, that the division of society into classes, in which some had the rights and privileges while others were deprived of such, was found not only in India, but the other parts of Ancient world like Greece, Rome. There were others like Dikshitar who talked highly of the caste system, for it was based on, well grounded scientific and economic principles⁵ and preserved harmony and orderliness in society.⁶ Beni Prasad on the other hand has different view point.

1. Ibid. p. 534-535

2. Ibid. 535

3. Shamashastry, R. – Evolution of Indian Polity. P. 88.

4. Altekar, A.S.- State and Govt. in Anc. India. P. 65.

5. Dikshitar, V.R.R.- op.cit. p. 38.

6. Ibid, p. 40.

He says "The principle of Caste is the negation of the dignity of man as man. It rules out all idea of individual liberty or rights independently of those which arose from the necessity and desirability of performing prescribed social functions. Hence, there was no effort in the history of Hindu Politics to define the spheres of individuality on the one hand and the group or state on the other hand. Laissez – Faire had no basis in Ancient India."¹ Beni Prasad further adds, caste system, by eliminating the possibility of Democracy and Aristocracy alike, left the monarchy as the dominant type of government.²

The relation between 'State and society' as existing in Ancient India, has also been studied in detail by the Nationalist Scholars. R.K. Mookerjee points out that in the west the predominant tendency has been towards a progressive extension of state interference and state control so as to bring within its limits all the main departments of social life and National activity.³ But in India both (state and society) were independent organisms with distinct and well defined structures and functions of their own and laws of growth and evolution.⁴ Thus in the west the king is the head of the state as well as of society, but in Ancient India the king was the head of the state, but not of the

1. Beni Prasad – The State in Ancient India pp. 11-12.

2. Ibid, p. 8.

3. Mookerjee, R.K. – Local Government in Ancient India – p. 4.

4. Ibid, p. 3.

society.¹ Beni Prasad agrees to the point that society had its own laws and functions, and state did not interfere with its normal activities. However it was not due to the co-existence of State and society as independent entities but because of the fact that 'No clear distinction between society and the state existed.'² Society is all one whole.³ The same organisation is at once religious, political economic and military.⁴ The state was only one of the groups to which the individual belonged, or rather, the state was merged in the social order as a whole.⁵ Here the monistic theory of sovereignty as applied to the state or government, fails completely: only a pluralistic theory can grasp the Indian phenomenon.⁶

Even though Ancient Indian mind reflects the tinges of 'imaginativeness' and 'metaphysical bendings,' many scholars have observed that, political theorists were guided by 'practical approaches'. The theory of public affairs rarely loses touch with the social conditions and the political temper of the times.⁷ It assumes the existing social order, the traditional scheme of duties and the prevalent form of political organisation.⁸ This tendency of 'Practicality'; might have been the main reason which led the ancient political theorists to concentrate more on the function of

1. Ibid, p. 4.

2. Ibid, p. 8.

3. Ibid, p. 8.

4. Ibid, p. 8.

5. Ibid, p. 9.

6. Ibid, p. 9.

7. Ibid, p. 5.

8. Ibid. p.

government rather than on its machinery. "Ancient Indian writers on political science differ distinctly in one respect from modern ones. The political theorists and philosopher of today is concerned more with the machinery of government than with its functions. The place assigned to the proper duties and functions of the state is rather meagre and inadequate; but this factor looms large in the political literature of the ancient Hindus. To them the machinery of government was not of much consequence."¹

Influence of geography on the ancient Indian polity and political thought has been very much emphasised by Beni Prasad. Monarchy the prevalent form of government, in Ancient Period, was more than anything else the result of geographical features. 'In North India; the absence of any hills, lakes or unfordable rivers militated against the permanence of political boundaries. Prima-facie, every state would tend, as it were, naturally, to encroach upon its neighbours.'² This associated with the ideal of universal dominion; resulted in almost incessant warfare or readiness for war which was bound to influence the structure and working of governmental institutions.³ It would promote the monarchy as against any other forms of government. It might mean heavy military expenditure and correspondingly heavy taxation.⁴ He also endeavours to show that 'regional autonomy' and the absence of

1 . Dikshitar, V.R.R.-op cit. P.1.

2 . Beni Prasad - The State in Ancient India.p.4

3 . Ibid.-p.4

4 . Ibid.- p.4

'democratic organisations' were mainly the product of geography. The size of the country and lack of communications would render 'rigid centralisation impracticable.'¹ Similarly the low density of population in Ancient India 'was not favourable to the development of that intensity of life which characterised parts of ancient Greece and which issued in democratic organisation.'²

P.V. Kane in consonance with other nationalist historians believes that the concepts of polity and political thought were very much present in ancient India. He accepts that the notion of state and its function, universally applicable rules of conduct, developed administrative paraphernalia, and so on formed a part of political thought. But deviating from the general trend he did not support the ancient Indian political ideas and institutions without critically evaluating some of its drawbacks. Kane observes that ancient Indian political writer could envisage monarchy as the only legitimate form of government. The result of (such unilinear thinking) has been that the king came in practice to be almost synonymous with government and the state, though a very lofty sense of his duties and responsibilities was impressed on the king.³ Another defect, he further comments, lies in the almost total absence of discussion on the form and working of oligarchic or republican states.⁴

1 . Ibid.- p.4

2 . Ibid.- p.7

3 . Ibid. p.

4 . Ibid.

Kane vociferously criticises the non changing and some what static character of theories guiding the polity of early India. He comments, 'once the main outlines of the theory of the state were established by the first writers on polity, for about two thousand years succeeding generations of authors were content to follow in the old groves and hardly ever made any fresh approach to the problems of government or started any rival conceptions or theories. Ancient authors were content to induce the kings and the people to support as far as possible the status quo. They thus provided for a more or less static society and did not encourage any dynamic thoughts or movements.'¹ Kane however also added that such a phenomenon was not confined to India alone. Small states, constant wars and invasions were the commonest phenomenon in Europe till the 15th or 16th century and no reproach should be levelled at the Indian writers alone.²

Lack of unity and non development of patriotism even when faced by the foreign invasion, has been according to Kane, one of the most serious shortcomings on the part of ancient Indian theorists. He says, 'the old writers spun the same old webs of theories that had been there for centuries, they did not formulate new theories nor did they take step to infuse into the common people a sense of solidarity and unity as Indians and did not

1 . Ibid.

2 . Ibid.

inculcate deep and abiding sentiments of patriotism similar to those we find in western countries for the last two to three hundred years.¹ Notwithstanding such criticism, Kane had great respect towards the theorists of early India. In spite of such drawbacks it will have to be conceded that ancient Indian writers made substantial and independent contributions to the theory and practice of government and that their handiwork can stand comparison with the ancient and medieval thought of most countries of the world.²

1 . Ibid. p. 236

2 . Ibid.

III

PERCEPTION OF POLITY : ITS ANTIQUITY AND CONNOTATIONS

Most of the works on ancient Indian polity began with the author giving evidence to prove the existence of 'independent school of polity' much before the age of mauryas. The motive behind such exercise, it seems was to counter the European allegation that ancient Indians' did not witness the emergence the science of polity, as an independent branch of knowledge Europeans in general, as D.R Bhandarkar puts it, believed that 'Hindus made no contribution to the science of politics and India had therefore no place in the political history of the world'.¹ A.B. Keith in his foreward to N.N. Law's 'Aspects of Ancient Indian polity' remarked, 'The subtle and profound spirit of India, which finds its fullest expression in the absolute idealism of the Vedanta of Sankara and the sceptical nihilism of Nagarjuna is alien to the conception of man as a political organism, whose true end can be found only in and through membership of a social community. Hence India offers nothing that can be regarded as a serious theory of politics in the wider sense of that term.'²

1 . Bhandarkar, D.R. – O.P. cit p.3

2 . Kuth, A.B. – in foreward to N.N. Laws aspecis of Ancient Indian Polity-
P.V.

Nationalist historians on their part, demonstrated that ample evidence of the existence of a science of polity can be traced in the brahmanical and Buddhist literature, which in any case are earlier than the 5th century B.C. Not only this, emergence of an independent branch of knowledge which exclusively dealt with the polity can also be taken in and around the 5th century B.C. Jayaswal thinks that 'politics has been studied for centuries before kautilyas time, and had become a recognised subject when the kalpasutras were still being completed.'¹ A.B. Pant in his introduction to Beni Prasad's 'Theory of Government in ancient India' equates kshatravidya mentioned in chhandogya upainsad, with the 'science of government' and thus seeks to establish that the origin of the science of polity can be traced back to the age of upanisads.²

Different terms used in ancient India, for the theory and practice of government, were Rajadharma, Raiyasastra, Dandaniti, Rajaniti, Nitisastra and Arthasastra. Early Nationalist scholars endeavoured to understand these terms in the context of socio-economic features of ancient India. They also compared and contrasted the relative connotations of the different terms used for the science of polity. Relation between Arthasastra and Dharmasastra has been analysed by scholars like P.V. Kane,

1 . Jayaswal – K.P. op cit. P.4

2 . Pant, A.B., in Beni :Prasad Theory of Government in Ancient India. P. XXI.

whereas U.N. Ghoshal among others, underlines the influence of Brahmanic and Buddhist notions of man, society and cosmos on the early political speculations.

The sources of our knowledge about the polity of ancient India, according to K.P. Jayaswal, extend over the vast field of Hindu literature-vedic, classical and Prakrita and also the inscriptional and numismatic records of the country.¹ Besides these sources, he also talks of 'a few technical treatises on Hindi politics left to us in original.'² To calculate the date of earliest literature on polity, Jayaswal takes the help of kautilya's arthasastra whose date he assumes to be 300 B.C. observing that the number of authorities (earlier thinkers on polity) cited by name in kautilya's code is eighteen or nineteen, he argues, 'If we allow an interval of even twenty years for each of these known authorities, we shall have to date the literature of Hindu Politics as far back as circa 650B.C.'³ This date he further adds, 'is corroborated by the Jatakas, which are regarded as Pre Buddhist (i.e. anterior to 600 B.C); they recognize Artha, that is Arthasastra, as a chief science for the guidance of successful ministers.'⁴

Jayaswal, also deduces that 'the treatises on political theories and practical governance were originally called Dandaniti

1 . Jayaswal K.P. op cit. P. 3

2 . Ibid.

3 . Ibid. p. 4

4 . Ibid.

(principles of Government) and Arthasastra (code of common-wealth),¹ but were later on, superseded by the terms Niti (policy or principles) and Naya (Leading, principles) in around 4th and 5th centuries A.D.² other terms used for the subject were Raja-Sastre and Rajadharma, under the latter term, it has been treated in the Santi Parvan of the mahabharat.³ Jayaswal also points that, 'The Panchatantra, which is a book on politics put into fables for the early education of princes and would be statesmen, adopts the term Naya-sastra to denote such literature.'⁴

Jayaswal opines that, the Hindu Politics was also discussed in secondary works like Nibandhas (digests), and Puranas,⁵ He, however does not believe in the efficacy of these sources for knowing the polity of ancient India. It is commented upon by Jayaswal that, 'As to the value of these later-day works, they, of course are products of the decadent period.....The Nibandhakars and the puranas have no originality. The Puranas merely copy some chapters from some well known authors e.g. the Agni-purana borrows from an author called pushkara.'⁶ The significance of the Dharma-Sastra as a source on ancient India polity is underlined by Jayaswal through his following observation, 'Better materials next

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1. Ibid - p.4
 2. Ibid. p. 5
 3. Ibid. p.
 4. Ibid. p. 6
 5. Ibid.
 6. Ibid.

in value only to regular treatises, are to be found in Aphorisms and codes of Dharma under the chapter styled the 'Laws for the king', which represent the constitutional laws as defined by Dharma writers.'¹

Talking about the antiquity of Dandaniti (science of polity) N.N. Law thinks that it can be traced back to the epic period. Both the Ramayana and Mahabharata mention its existence as a branch of learning, and contain political maxims and technical expressions which show a long prior study of the subject.² The technical terms associated with the polity in epics, are used repeatedly and the authors seem to have realised their meaning and connotations quite clearly. This is taken by Law as an evidence of the long process of evolution of political ideal and institutions. He observes, 'Expression like 'eighteen tirthas, six courses of action (Sada gunyam), elements of sovereignty (Prakrtayah), statal circle (Mandala) six evils (sad anarthah), seven policies (Sapta upayah), and fourteen elements of the military strength, along with a string of technical terms...., not only indicate the long period required for the said analysis and evaluation, but also their use as matters of common knowledge'.³

N.N. Law, even though accepts the view that the literature on Dandaniti had a long career before the stage at which appear the

1. Ibid. p. 7

2. Law N.N. Aspects of ancient Indian Polity. P. VII

3. Ibid. 6 p.

Kautilya,¹ he does not venture into calculating the time involved in its growth. It is not possible, he points out, to compute the time involved in its growth, though it is certain that a few centuries must have elapsed before it could reach its high stage of development about the time of the composition of the Kautiliya.² Law also does not support any move to establish the time period between the earlier works on polity and the Arthasastra of Kautilya on the basis of Greek sources. He observes, 'Nor would it be safe to calculate this period on the analogy of the development of the contemporary literature, if available of the Greeks, as is sometimes done, and allot particular intervals to particular stages of evolution of the literature; for the Greek mind, and the surroundings in which it worked, could not be the same as the Hindu mind and its environment, and the amount of progress that the Greeks might have made within a definite period in a certain field of literary activities might have occupied the Hindu a considerably longer period and vice-verse.'³ Law firmly believed that, 'the scope of the ancient Hindu works on polity was very wide And it ranged from instructions on the simplest items of duty of the sovereign to those on the maintenance of discernable inter-state relations involving many knotty problems'.⁴

1. Ibid p. IX

2. Ibid.

3. Ibid.

4. Ibid P. XI

P. N. Banerjee in his study of ancient India polity finds that unlike the present day where theorisation and abstraction form the essence of political writings, in the earlier days it concentrated more on the practical aspects of administration. Instead of barren political speculations, writers of political science in ancient time showed more inclination towards pronouncing such policies which could be of use for the rulers in performing their duties. Banerjee thus observes, 'politics was treated more as an art than as a science; in other words, guidance in the practice of actual administration, rather than the construction of a complete and consistent system of political theories, was the object mainly at in the study of the subject.'¹ Taking a cue from Chanakya and Sukraniti, Banerjee further comments, 'the mode of treatment was thus more practical than theoretical; and one result of this was that the conclusions were expressed in the form not of scientific principles but of moral precepts.'²

Banerjee takes- The vedas, the Hindu epics, the smritis, the puranas, the religious books of the Buddhists and the Jainas, historical and dramatic literature, accounts of foreign travellers, epigraphic records, and lastly a few treatises which deal specially with politics-as sources of information regarding the system of administration which prevailed in India in the ancient times.³ Like

1. Banerjee, P.N. Public administration in Anc. India PP. 1-2.

2. Ibid. P.2

3. Ibid.

Jayaswal and Law, Banerjee also recognises the importance of Mahabharat and Ramayana as sources of ancient Indian polity. Assuming that stories found in these epics are largely based on real occurrences, Banerjee says, 'both these great works present us with glimpses of the political condition of early Hindu society and of the relations between the rulers and the ruled, while not a few chapters of the Mahabharat are specially devoted to an exposition of the duties of kings and of the rights and obligation of subjects. Unlike Jayaswal who denounced the importance of puranas as lacking originality and being the product of decadent period, Banerjee advocates its importance as a source to understand the society and polity of early India. He opines 'their great value from the historical standpoint lies in the fact that they contain a considerable amount of genuine historical tradition and preserve more or less correct lists of kings who ruled in India from the earliest times until towards the close of the Hindu period of India. To the student of political science the Agni Purans, which treats of political in considerable detail, is specially important.'

Arthasastra of Chanakya for Banerjee is the most important work dealing with the subject of public administration.² He contrasts the meaning of Arthasastra which is defined by him as 'the science of secular welfare', from Dharma -Sastra or the science

1. Ibid. p. 3

2. Ibid. p. 5

of moral and spiritual well-being.¹ Banerjee even though accepts the thoroughness as well as the mastery of minute details of Arthasastra was not averse to point out, some of its draw-backs. He does not appreciate the principle of expediency which overlooks the ethical values. 'side by side with words of the highest kind of wisdom, we find here emphasised the utility of time-servingness and the necessity for the subordination of ethical principles to considerations of expediency. The political doctrine preached in this book, namely, that the end justifies the means, marks a notable departure from the high moral standard of earlier times.'² Besides Arthsastra, the most notable works on polity, in view of Banerjea are the Nitisara of Kamandaki, the Nitivakyamrita of Somadeva Suri, and the Nitisara which is attributed to Sukracharya.³

D.R. Bhandarkar, confronts the percetions of scholars like dunning, Blowmfield, and max muller who think that in ancient India polity was so much influenced by theology that it was difficult to disentangle the two. He feels that such views had some truth before the discovery of Arthasastra, but not after its publication. It is no longer, says Bhandarkar, correct to affirm that the Indians never freed, Their politics from the theological and metaphysical environments and never set up its science or art as an independent

1. Ibid. pp. 8-9
2. Ibid. pp. 9-10
3. Ibid. p.12

branch of Knowledge,'¹ Analysing the views of Barhaspatya and Ausanas (mentioned in Kautilya's Arthasastra), Bhandarkar thinks, it was not the encroachment of theology on polity but the opposite. On the contrary, we have reason to suspect that there was an encroachment the other way, that is, the encroachment of polity upon theology or philosophy.²

Speculating upon the time when the study of polity must have begun, Bhandarkar assigns seventh century B.C. as the period of its inception. He however does not give any solid argument for his view point. Representation of the science as emanating from Gods and demigods (as given in Mahabharat) and Arthasastra being, raised to the rank of an upaveda by Atharveda,³ have led Bhandarkar not only to establish its antiquity but also to calculate its time of origin. He observes, considering all things together, it will not be at all unreasonable to maintain that Arthasastra or Dandaniti could not have originated itself later than 650 B.C.⁴

Dialogues of polity in Shantiparva, says Bhandarkar, have been called Itihasa.⁵ Kaulalya too places Arthasastra, like Purana and Dharmasastra under Itihasa.⁶ Bhandarkar in his study,

1. Bhandarkar, D.R. Op. Cit. P. 3

2. Ibid. p.4

3. Ibid. p.

4. Ibid. pp. 6-7

5. Ibid p. 9

6. Ibid.

differentiates between the Arthasastra and Dandaniti. Arthasastra which according to him 'is the science which deals with the acquisition and maintenance of the earth'; is but a part of Dandaniti, which beside acquisition and preservation also concerns with augmentation of what has been so preserved and distribution amongst the deserved of what has been so augmented.¹ It is also put forward by Bhandarkar that Arthasastra does not deal wealth but with the acquisition of territory and its preservation.²

Kautalya's Arthasastra mentions many earlier thinkers who wrote on the science of polity and the present work was but the compendium of all the earlier works. This leads one to ponder, If there were already works on Arthasastra, what was the need of Kautalya compiling another' ?; And whether, Kautalya's work is just a repetition of earlier Arthasastra or possesses some originality as well. In response to the first question Bhandarkar says, 'it appears that the study of this science, probably on account of its extreme and tedious voluminousness, was becoming more and more distasteful, that Kautalya composed a work which was a sort of abstract from almost all the Arthasastras known up till his time, shorn of all its pedantic discussions and consequently serving as a valuable guide to the budding politician who could now easily grasp and comprehend it and thus he rescued it from the complete

1 . Ibid pp. 9-10

2 . Ibid pp. 11-12

oblivion that had threatened it.¹ Professing that Kautilya's Arthasastra contain original view of the authors even though it is supposed to be compendium of earlier works, Bhandarkar further observes, 'In many places where questions of policy or administration are discussed....he has set forth his own with a clarity and precision which shows that he was not a mere theorist or literary pedant but rather a statesman endowed with rare political insight and practical wisdom.'² It was because of the originality of his work, 'in the early centuries of A.D. Kautilya had come to be looked upon as the originator of a school like Manu, Brihaspati, and so forth.'³

Kamandaka's Nitisara (500 A.D.), thinks Bhandarkar was the result of shortening of Kautilya's Arthasastra.⁴ The word niti, which uptill the times of Kamandaka, was employed to denote 'State policy' came about the tenth century to signify 'general morals' 'rules of general conduct', of which polity was a mere branch.⁵ It was in such an environment that a different type of literature dealing with polity, known as digests or commentaries came to the fore. Bhandarkar holds, 'But for the help and guidance of princes and statesmen arose about this time what may be called

1 . Ibid. p. 20
 2 . Ibid. p. 20-21
 3 . Ibid. p. 22
 4 . Ibid. pp. 24-25
 5 . Ibid. p. 25

digests of political science.’¹ These digests of political science followed, on the whole, the principles of polity set fourth by the Dharmasastra.² Similarly it is observed, ‘It may set forth subjects of remakable interest, but there is no freshness or originality about it.’³

Bhandarkar also believes that Kautilya’s Arthasastra was perhaps the last original technical work on polity. He thus observes, ‘Infact, it remains incontrovertible that after kautilya the science of polity not only made no progress at all but was fast on the decline.’⁴ Relating this phenomenon with the incursion of foreign hordes like sakas, pahlavas-etc-who replaced the sovereignty of the indegenous royal families, Bhandarkar writes. ‘The old Hindu genius for originality and development of political thought thus remained dormant and died a natural death. And this seems to be the reason why the Hindu science of polity made no kind of progress after Kautilya.’⁵ It is further argued by Bhandarkar that ‘the only indigenous class in India who profited by this political upheaval was the Brahmanas.’⁶ The power of the Barhmanas gradually increased and there was hardly any part of the social fabric or any branch of literature to which they did not

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- 1 . Ibid. p. 26
 - 2 . Ibid.
 - 3 . Ibid. p. 27
 - 4 . Ibid. p. 27
 - 5 . Ibid. pp. 27-28
 - 6 . Ibid. p. 28

give a shape which was consonant with their power and importance.¹ It was because of the Bharmanic ascendancy, thinks Bhadarkar,' The old Arthasastra, which was of an eminently practical nature and coincided with the practice of the people, was fast being tapped and all the important portions of it were incorporated into this metric smritis and were given such a form as to advance their personal end.'² Thus according to Bhandarkar in the early christian era it was the evergrowing power of Bhahmanas which gave unquestionable preference to Dharmasastra over Arthasastra.³

S.K. Aiyangar visualises Dandaniti as a necessary precondition for the proper functioning of society and state. Society which, thinks Aiyangar, is composed of various groups, needs a supervisory authority so that each group pursued its life with a freedom-Dandaniti, deals primarily, with this aspect of sociopolitical life. The organization called for therefore is primarily an organization whose principal function was the doing of justice by administering punishment upon the erring, and that is what the Hindus meant by the term Dandaniti, a life of discipline enforced by punishment.⁴

1 . Ibid.

2 . Ibid.

3 . Ibid. p. 29

4 . Aiyanger, S.K. in introduction to V.r.P. & Hindi Administration institution P. XX.

Arthasastra of Kautilya, in view of Aiyangar is a major work, on the basis of which, adequate information about the theory and practice of political life in ancient India can be gathered. According to Aiyangar, Kautilya was the minister of Chandragupta Maurya and laid down the administration for the Mauryan Empire.¹ The controversy, whether the Arthasastra contemplates a government for small kingdom or for an empire, is sought to be resolved by Aiyangar by pointing that the administration which was based on the bedrock of local government made the distinction between an empire and a kingdom superficial; He observes, what seems to be laid down for a congeries of small states cannot be far different from what was necessary for a really imperial state.² Examined in this light it will be found that even the Arthasastra polity provides the machinery for carrying on the imperial administration as well as the administration of a comparatively small state.³ Commenting further Aiyangar writes. 'The fact that Kautilya lays down the means by which a state, placed in the middle of a number of states round about it, of equal strength, can make conquests of its neighbours and become an imperial state is just what gives the indication that Chanakya helped to evolve from out of a powerful single state an empire, far flung and reaching to the frontiers which British Statesmen, even of the twentieth century, have sighed for in

1 . Ibid. pp. XII-XII

2 . Ibid. p. XIV

3 . Ibid.

vain, at least on one side of India.’¹ Aiyangar does not find any incompatibility between the socio polity depicted by Kautilya and those described by Ashokan edict or the accounts given by Megasthenes. He thus observes, ‘Such details as we get in the edicts of Ashok seem to go only to confirm that the polity behind the edict is the Kautilyan polity.. what therefore the Arthashastra lays down as the necessary machinery of administration of the headquarters of the kingdom, when understood properly, would prove to be adequate to the needs of the empire.’² Similarly Aiyangar further observes, ‘judged by what we know of the administration of towns in later times, there seems to be nothing incompatible between the description given by Megasthenes and the institutions as described in the Arthashastra.’³ Regarding some discrepancies between the Megasthenes and Kautilyan accounts about Mauryan administration, Aiyangar opines, ‘Megasthenes probably attempted to describe to his countrymen, at least to the readers of Greek, the institutions as found in the Mauryan Empire in a way that they might understand, This necessity has naturally introduced modifications in the description which can hardly be regarded as an actual rendering in parts of the institutions that existed in Mauryan India.’⁴

1 . Ibid.

2 . Ibid.-p.XV

3 . Ibid

4 . Ibid.

V. R.R. Dikshitar towing in line with the established tradition of Nationalist historiography is eager to demonstrate the antiquity of the science of polity. But unlike Jayaswal and Bhandarkar does not take pain to establish the period when the study of polity might have begun. Dikshitar defines the term Dandaniti, 'as the science of Hindu administration dealing both with the function of government and the machinery of the government.'¹ Drawing our attention to the peculiarity of the science of polity in ancient India and contrasting it with the modern days concept about political science, Dikshitar observes, 'The political theorist and philosopher of to day is concerned more with the machinery of government than with its function. The place assigned to the proper duties and functions of the state is rather meager and inadequate; but this factor looms large in the political literature of the ancient Hindus. To them the machinery of government was not of much consequence.'² Perhaps with the intention of explaining this peculiarity of ancient Indian political thought, Dikshitar points out, 'the functions of government were considered a more important factor. Any slight deviation from the established duty which the state owes to the community at large was deemed an unrighteous act of government. Thus in a way the functions of administration might be said to have decided the machinery of government.'³ He however adds 'From this it is not to be taken that both the function

1 . Dikshitar, V.R.R. – Hindu Administration institutions p.1

2 . Ibid.

3 . Ibid. pp. 1-2

and the machinery were merged into one whole; on the other hand a sense of separateness was felt between the two concepts.’¹

Dandanti, - the art and science of government came to be known later on by other terms such as Arthasastra, Rajadharma, Raja niti and Nitisastra. All the sources of our knowledge about the polity, of ancient India, describe Dandanti as the means which brings peace and harmony in society and furnish the all round development of man. The same view is echoed by Dikshitar when he says, ‘In short, Dandaniti shows how best to promote the well being of society.’²

U.N. Ghoshal considers, Samhitas of Veda and Brahmanas, though indicate the sediments of polity, it was the Dharmasutras, Buddhist Canonical works and the Arthasastra which describe the political life in clear and pronounced terms. Examining the importance of Dharmasutras as the source of polity, Ghoshal observes, ‘the political ideas of the Dharma sutras mark a distinct advance of the thought of the Samhitas of Yajurveda and the Brahmanas. For they indicate, in contrast with the disjointed and somewhat dogmatic ideas of the works, systematic and advanced as well as rational views on such topics as the law of the social order, the authority and obligation of the temporal ruler and the mutual relations of the temporal and the spiritual powers.’³ Tracing

1. Ibid. P.2

2. Ibid. P.3

3. Ghoshal U.N.-A History Political ideas - p. 41

the antiquity of Dharmasutras Ghoshal opines 'there is reason to believe that the beginnings of formal treatises on dharma go back before the time of Yaska, authors of the Nirukta (C. 800 B.C.).¹ It is also pointed out by Ghoshal, that the most important and original contribution of Dharmasutra was the development of the concept of dharma and making it supreme. He observes, 'Authors conceive dharma of the time in the concrete sense of the sum total of the distinctive duties of the four castes (varnas) and the four orders (asramas) as well as the individual king who is as it were, sui generis. This involves the conception of law of the social order which is, supreme over its members.'² The importance of Dharmasastra also rests on the fact that they pronounced the concept of kingship involving a remarkable development of the two fold principles namely, that of authority and obligation of the temporal ruler.³ Commending the obligation of kings towards the subject as the most original aspect of the theory of kingship, Ghoshal says, 'Kings obligation towards his subjects involve a three fold principle. Viz. The divine, the ethico-religious and quasicontractual. The first principle means that the kings obligation of protection is imposed upon him by his Divine ordination. The second principle... is imposed upon the king by the law of his order which is part and parcel of the comprehensive law binding all units of the social system and having its source

1. Ibid. p. 42

2. Ibid. p. 43

3. Ibid. p. 41

primarily in the Vedas. The third principle implies that the king is bound to protect his subjects in return for the taxes paid by them.¹

Ghoshal was among the few early scholars who underlined the importance of Buddhist canonical works in knowing the polity of ancient India. He points it, in no uncertain terms that Buddhism brought variety in the political organisation of early India. The Buddhist canonists dispensed with the necessity of divine intervention for explaining the social and political ideal. They formulated a remarkable theory of the origin of man and his social and political institutions, a theory based upon their distinctive doctrine for the periodical evolution of the world.² Pronouncing the significance of Buddhist canons towards the development of science of polity, Ghoshal observes, 'In the first place it justifies by reference to historical processes the necessity of the King's office in the interest of the institution of property in particular and public order in general . It thus provides a strong historical justification for a characteristic principle of our ancient thinkers from the period of the Dharmasastras onwards, namely, the conception of the kings office as the grand safeguard of individual collective security.'³ Ghoshal also points out 'the compact of the people with their original ruler involved in this theory is clearly bilateral in the sense that it imposes upon the ruler the obligation of punishing

1 . Ibid. p. 50

2 . Ibid. p. 62

3 . Ibid pp. 64-65

wrong doers in return for payment of the customary dues by the people.¹ The theory therefore, thinks Ghoshal, furnishes a proper historical argument for a second characteristic conception of our ancient thinkers, namely that of the temporal ruler's quasi-contractual obligation of protecting his subjects.²

The technical workers on polity (Arthasastra) brought into being an independent branch of learning avowedly concerned with the acquisition and preservation of dominion.³ Talking of their importance, for the development of the science of polity, Ghoshal points out that they betray objectivity.⁴ 'and employ the principles of empiricism.'⁵ In framing their rules and principles of government, the Arthasastra thinkers in general apply the methods of observation, analysis and deduction in respect of the phenomenon of political life.⁶ The wide range of the topics discussed in Arthasastra comprise the branches of central and local administration, home and foreign policy, civil and criminal law and the art of warfare.⁷ Arthasastra of Kautilya, indicates that the tradition of Arthasastra was at a developed stage by the time it was compiled. Many schools of polity and individual thinkers are mentioned by Kautilya. Comparing the two, Ghoshal observes.

1. Ibid. p.65

2. Ibid.

3. Ibid. p. 41

4. Ibid.

5. Ibid. p. 82

6. Ibid.

7. Ibid. p. 81

'The early schools and authors of the technical science of polity (Arthasastra) indicate a strong tendency towards a materialistic view of life as well as the deliberate sacrifice of morals for political ends. But in Kautilya, the last and the greatest of the Arthasastra masters, we notice a tendency towards the joint application (in theory if not in practice) of virtue and wealth as the standards of the king's government and a line of statecraft honouring as well as violating the moral standards.'¹

Ghoshal in his study also compares the Arthasastra with the Dharmasutras. He points out that the range of Arthasastra is much wider and extensive compared to that of Dharmasutra. 'While the cononical writers mention only the rudiments of public administration, the political writers are able to treat their subject on a vastly enlarged canvas. They describe the institution of the state alike in their normal and healthy as well as their abnormal and diseased condition, and they make the first serious attempt to grapple with the concrete problems of administration.'² Second difference, between the two relates to their origin. Arthasastra, in view of Ghoshal, 'is the product of the independent schools and individual teachers working more or less on lines distinct from the Brahmanical canon. Hence it lacks the positive character attaching to Rajadharma by virtue of the latter's association with

1 . Ibid. p. 4

2 . Ibid. p. 82

the great concept of Law.¹ Contrasting the respective ethical values of the two sources of polity, Ghoshal observes. 'Since Rajadharma is equivalent to the whole duty of the king, its rules are determined by the ideal of the highest good of this individual. Arthasastra, on the other hand, has avowedly for its end the security and prosperity of the state. Accordingly its rules of kingly conduct are determined primarily with reference to the interest of the state.'² The composite line of policy based on righteousness as well as violence advocated by Manu and Bhrama (in the Mahabharat), thinks Ghoshal, was inculcated under the impact of Arthasastra.³

As Altekar thinks that chronological order can be established between the different terms used for the science of polity. He thus opines, 'in the early stages of the development of the science, it was known as Rajadharma; Dandaniti became a more popular term little later, and Arthasastra was suggested as an alternative to it. In course of time however, the word Rajaniti-Sastra, abridged into Nitisastra became most popular and gradually supplanted the other terms'.⁴ Taking the comprehensive aspect of Dandaniti, Altekar opines it deals with the totality of social political and economic relationship and indicated how they are to be properly organised and integrated with one another.⁵ Taking Artha in its

1. Ibid.

2. Ibid.

3. Ibid. p. 4

4. Altekar, A.S. – State and Government in Ancient India. P. 4

5. Ibid. p. 2

usual meaning as money or wealth, he observes that explanation (given in Arthasastra) to justify the use of the term Arthasastra for the science of politicals appears to be rather forced and far-fetched. But posterity has acquiesced in the term primarily because the most important book on the science of politics is known as 'Arthasastra.'¹

Conjecturing upon the earliest date of the development of the science of polity, Altekar proposes the 7th century B.C. to be the period when the beginnings of literature on polity can be traced.² To support this hypothesis he argues, 'From about the 8th century B.C. an age of specialisation commenced and the specialists in grammar and etymology, prosody and astronomy began to form separate schools and compose special manuals for the beginners as well as the advanced scholars. The beginning of a school of politics properly so called has been ascribed to this age of specialisation, it is however certain that it was somewhat later in origin than the above sciences and probably contemporaneous with the school of Dharma-sastra.'³ The fact that the country in 7th c.B.C. was studded with many small kingdoms which, might have led scholars to discuss the problems of administration.⁴

After Kautilya's Arthashastra there was dearth in the original literature on polity. Altekar endeavours to explain such a

1. Ibid. p. 3

2. Ibid. p.5

3. Ibid.

4. Ibid. p.6

phenomenon. Like Panini, Kautilya's work was so great that very few could think of superseding him.¹ His work became a standard treatise on polity which was followed in its essence by the later writers on political science. It is also argued by Altekar that smritis written during C-200 B.C. to 200 A.D. which discusses Rajadharma, might have contributed towards the sterility in political literature. Even though their treatment of polity was not comprehensive and systematic as that of Arthasastra...they possessed the additional advantage of including a discussion of the rules of varma Asrama and pryaschita and thus appeared as more useful manuals to the public than the books on the pure Arthasastra.² Lack of interest in the realm of the political thought was also responsible for the scarcity of works on polity, Altekar says. 'Abstruse thinking and daring speculation which is characteristic of Hindu thought in other departments like philosophy and poetics are strangely enough conspicuous by their absence in the works on the science of polity.'³

P.V. Kane, within Rajadharma section of the third volume of History of Dharmasastra, discusses the antiquity and relative significance of different terms used to denote the science of polity in early Indian literature. He pronounces, 'that great literary activity on the science and art of government went on far many

1. Ibid. pp. 15-16

2. Ibid. p. 16

3. Ibid. p. 17

centuries before the christian era.¹ To support his view point, he underlines the fact that Mahabharat and Arthasastra talk of a long tradition of the science of polity. In the same vien Kane further observes, 'Another fact indicative of the systematisation of the science of government is that in the Mahabharat, the Ramanayana, Manu and Kautilya ideals expressed by numbers had already stereotyped long before those works were written viz. Such as saptanga Rajya, Sadgunya, three shaktis, the four upayas, astavarga and Panchavarga, the 18 and 15 trithas.²

Different terms employed for the science of polity were Rajadharma, Rajasastra, Dandaniti, Arthasastra, Nitisastra etc. Kane thinks ' the most appropriate word is Rajasastra and it is employed by Mahabharat.³ Underlining the fact that 'Arthsastra has been a synonym for Dandaniti, Kane observes, these two terms are applied to the science of government from two different points of view⁴ when wealth and prosperity of all kinds is the spring and motive of giving a name the science treating of these is called arthasastra and when the government of the people and the punishment of offenders are the main ideas the same is called dandaniti.⁵ Such a proposition of Kane contrasts the one given by Bhandarkar, when the latter thinks that 'Arthsastra is but a part of

1 . Kane, P.V. History of Dharmasastra – VI. III p. 1

2 . Ibid. p. 2

3 . Ibid. p. 4

4 . Ibid. pp. 6-7

5 . Ibid. p. 7

Dandaniti',¹ Differentiating between the drstartha (the effects of which are wordly and visible) and and adrstartha (that have no visible effect but have a spiritual result), Kane observes, 'though works like Kautilya's Arthasastra place high value on dharma they are principally concerned with the treatment of central and local government, taxation, the employment of sama and other upayas, with alliances and wars, appointment of officers, and punishment. Therefore Arthasastra is mainly what is called dristrattha smriti.'²

Like Ghoshal Kane too compares the relation between, Arthasastra and Dharmasastra. Based on the premise, Rajadharma is a very important subject of dharmasastra, Kane observes, 'Arthasastra which is principally concerned with the rights, privileges and responsibilities of the ruler is therefore properly speaking a part of dharmasastra.... It is supposed to have like dharmasastra a divine source.'³ However Kane delineates some differences between the two as well, he thus remarks, 'works on arthasastra enter into great details about the government of a country in all its aspects, while dharmasastra works generally deal only with a few salient features of rajasastra.'⁴ Commenting further, Kane says,, in the eager and relentless pursuit of worldly prosperity means are recommended or followed (by Arthasastra)

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1. Bhandarkar .V op. Cit p. 7
 2. Kane. P.V., op. Cit. P. 7
 3. Ibid. pp. 8-9
 4. Ibid. p.9

which may come in conflict with the strictly ethical standpoints of the dictates of dharmasastra.

Unlike most of the Nationalist historians Kane shows no qualms while commenting upon the other side of the ancient literary sources of polity. He observes, 'Though Arthasastra is in theory for keeping to the path of dharma, one cannot blink one's eyes to the fact that the mahabharat and the Kautilya both support in several places the adoption of means entirely divorced from all rules of fair dealing and morality.'¹ Mahabharat which otherwise talks very highly of ethics in socio-political life, 'was prepared to give up in certain circumstances the strict rules of dharmasastra for Kings and allow them to pursue devious modes of action that were far from moral, i.e. it tries to effect a synthesis of dharmasastra and arthsastra.'²

1. Ibid. p. 10

2. Ibid. p. 12

CHAPTER – III

NATURE AND SCOPE OF THE STATE

State in ancient India, as interpreted by many European scholars was despotic, theocratic, and exploitative in nature. They also professed that 'rule of law' and welfare of people, were concepts, alien to the political theorists of ancient India. But the nationalist historians have different view points, altogether. In their perception, ancient Indian state was a 'Benevolent institution', which not only protected the life of the people but also strived for their general welfare. D.R. Bhandarkar echoes the common opinion of nationalists, when he says; 'Protection of life and property and the administration of justice was not the only function of the Hindu state. It had also to take cognisance of a number of philanthropic intellectual and above all economic necessities.'¹ The state was not a 'necessary evil,'² nor was it confined to the hindrance of hindrances,³ It was a 'Trust', created for the prosperity of the people.⁴

The nature and aim of state in ancient India, as perceived by nationalist historians, is fully illustrated by the following

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1. Bhandarkar, D. R.- some aspects of Ancient Hindu Polity. P. 163
 2. Alteklar, A.S. – State and Govt. In Anc. India – p. 42
 3. Beni Prasad – Theory of Govt. in Anc. India – p. 4
 4. Jayaswal K.P. – Hindu Polity – p. 342

observation of A.S. Alterkar, 'the ancient Indian state was not merely a tax-gathering corporation, interested only in preserving law and order. It is pleasing and surprising to find that the state in ancient India should have interested itself in a number of ministrant activities of the nation building type, which are being under taken by the modern governments only in relatively recent times'¹He further writes,'The state regarded itself as a trustee of the population as a whole, and usually contented itself by harmonising the conflicting interests of different classes. It tried to keep the scale even between the capital and the labour, the employer and the employee, the producer and the consumer and the merchant and the purchaser by laying down suitable and stringent regulations for curbing the greed of the former and protecting the interests of the latter.... It (State) sought to promote the moral, matieral, aesthetic and spiritual progress of the whole community',².

1 . Altkar, A. S. – op cit. P. 384

2 . Ibid.

I

MEANING AND AIM OF THE STATE

The most dominant form of state in ancient India in view of the nationalists, was monarchy. Traces of republicanism can be found in many tribal oligarchies, but they were not more than exceptions. Bhandarkar in this regard observes. The king, being the soul of the body politic, thus represents the state.¹ Similar view is reflected in the writings of Banerjee, Beni Prasad, Kane among others. Beni Prasad surmises that lack of permanent natural boundaries among the states in North India and the philosophy of 'universal dominion' as an ideal before kings, resulted in incessant warfare or readiness for war. It would promote monarchy as against any other form of government.² Thus any discussion about the nature and concept of state is often entangled with the notion of kingship. Such an anomaly is very clearly brought to fore by P.V. Kane when he says that the word Rājya is used for all the three 'kingdom', 'state' and 'government'. Explaining that the word rājya etymologically means Karma (activity) or Bhāva (state) of a king, he opines, 'But Rājya is employed in the sense of 'kingdom' in popular parlance and also in the smritis and works on polity, as in manu. But when it is said that Rajya has seven elements.... In such case

1. Bhandarkar, D. R. – Some aspects of Ancient Hindu Polity. P. 113

2. Beni Prasad – The State in ancient India-p.4

it is proper to translate the word as 'the state. In some cases Rajya should be rendered as 'government' which includes ^{only} the king and his ministers.'¹

Many scholars like Bhandarkar, Altekar, observe that the definition of 'State', given in Kautilya Arthashastra, is very similar to those given in modern times. Sovereignty, government organisation, territory and population, which according to modern political thinkers, constitute a 'state' are proved to be preset in ancient Indian concept of state as well. Thus Bhandarkar says, 'Janapada' denotes both population and territory which form the physical constituents of the state from the stand point of modern political science.'² Unity and organisation which fall under sovereignty, is reflected through Swāmi, Amātya, Janapada. Swamin, which means the lord or the sovereign,' shows that the territory of which he is the lord must denote an independent entity, not forming part of a wider political unit.'³ Political organisation which presupposes the distinction, Between the governors and the governed was also present. Swamin and amatyas are the persons who are invested with this authority, and the Janapada who form the population denotes the individuals who render obedience.'⁴

1 . Kane, P.V.- History of Dharmasastra. P. III. P. 19

2 . Bhandarkar, D. R. op. Cit. P. 69

3 . Ibid. p. 69

4 . Ibid. – p.70

Durga, Kosa and danda were different means through which state can enforce its will.¹ Arguing in the same vein, Altekar points “Svamin (king) and amatya (ministers) constituted the central government, which exercised the sovereign powers and imparted the central unity. Rāstra (territory), durgas (forts), bala (army) and kosa (Treasury) constituted the resources of the state.”² Altekar further argues that “population is not mentioned as one of the constituents of the state probably because it was realised that it was too evident a truth to be specifically mentioned.”³

The ancient Indian writers and political thinkers had a clear concept of the state, is also accepted by P.V. Kane when he remarks, ‘the analysis of the elements and nature of the state led ancient Indian writers to hold that a mere conglomeration of people did not by itself constitute a state, but that for a state there must be people who live within certain geographical limits (sastra), they must be bound by the bond to render allegiance to ruler (svami), have a certain system of government (amatya), must have a regulated economic system, a force for Defence and international relationships.’⁴ He further writes, ‘the most essential elements of a state (I) a sovereign (ii) a system of government (iii) a definite

1. Ibid. pp. 70-71

2. Altekar, A.S. – op. Cit. P. 44

3. Ibid. - p. 45

4. Kane – P.V., op. Cit. P. 19

territory and (iv) a population of some size, were known even to the most ancient sutras.’¹

U.N. Ghosal, however does not conform to the views of scholars like Bhandarkar and Altekar. According to him, Rajya does not mean state or kingdom, but represents a ‘Catalogue of the constituents of a state and its government.’² In support of his proposition, ghoshal writes ‘In keeping with our idea of the state, it is true, the category distinguishes between the ruler and the ruled, while it refers likewise to the state, territory. But its further division of the rulers into two groups (svamin and amatya) and of the state territory under two heads (Janapada and Durga) as well as its reference to the two accessories of revenue and army appears to us from this stand point to be unnecessary and redundant, while the reference to the foreign ally is unessential,’³ It implies in other words a political organisation ruled by a king and his staff of officials over a definite territory by means of a standing army and a permanent revenue with the help of a foreign ally.⁴

The ‘organismic theory’ according to which state is a living organism consisting of a body and soul, whose different parts perform special function assigned to them, has been used very

1 . Ibid.

2 . Ghoshal – A history of Indian Political Ideas pp. 84-85

3 . Ibid – p. 84

4 . Ibid. – p.85

frequently, by European scholars to understand the nature of state. Such a concept, has been proved by some Indian historians, to be present in the writings of ancient political thinkers of India, as well. State is looked upon by the authors of the Hindu polity also as a living spiritual organism, where the svamin was the soul and the others six prakritis or natural constituents the body of that State.¹ Similarly B.K. Sarkar says; 'the organismic conception in Hindu niti philosophy is not merely structural or anatomical but also physiological in the sense that it is functional.'² Dikshitar too, supporting the fact of organic unity among various limbs of the state-body, writes; 'The state is said to possess seven limbs each discharging its ordained function, all ultimately contributing to the welfare of the body politic.'³

State, as visualised by ancient Indian theorists, had organic unity is also upheld by Kane. He remarks, 'Manu and Mahabharat held that there was on organic unity in the several elements of Rajya. All must work harmoniously towards one ideal or end'⁴. Kane also counters the notion of Anjaria, who opposed that the Hindu theory can be called a proper organic theory of the state, particularly because the Hindu thinkers did not regard the state as

1 . Bhaudarkar, D-R.- op.at. p-73

2 . Quoted in V.R.R. sikrhitar's Hindu Administrative institutions p.54

3 . Dikshitar, V.R.R. – op. Cit p. 51

4 . Kane, P.V. op cit. P. 18

a moral organism, because they attached a permanent stigma of inferiority to large section of the community on the bare ground of birth and that the Hindu conceptions did not harmonize the authority of the state and the liberty of the individual.¹ He further points out, 'the faults he (Anjaria) points out in the Hindu theory and practice beset almost all theories of the state almost in all countries. Even in the times of plato and Aristotle huge populations of slaves had no voice in the affairs of the state. Upto the 19th century true democracies never existed even in Europe.'²

Others like Altekar, Ghoshal talk of certain modification in the Eurpoean concept of organismic theory, while it is applied to understand the Ancient Indian polity. ' organic conception of the state is only partially true. The cells and limbs of an organism have no separate existence of their own and cannot function independently. Such it obviously not the case with at least some of the constituents of the state. Forts and resources can exist independently and may be weilded into a new state by some groups of the subjects.'³ Ghoshal points that the vedic theory of dependence of the temporal power upon the spiritual as representing the respective attributes of will and intelligence may be compared with the argument of medieval European canonists

1. Ibid. p. 20

2. Ibid.

3. Altekar, A.S. op cit. P. 46

justifying the superiority of the church to the state on the analogy of the mutual relations of the soul and the body,'¹ But the same cannot be said in relation to modern version of organismic theory. We have hardly any trace of the European philosophical ideas of the physical or the psychic animate-ness of the state in the conceptions of the Indian thinkers.²

Even if there might be slight differences among the modern historians regarding the existence or not of the concept of state in ancient India, or some may argue that organismic theory of state was not unknown to Indian while others may reject this, there is almost unanimity in the historians as far as the aims and functions of the state is concerned. Most of the historians think that providing security and order, so that one can enjoy the property and family in a peaceful manner was perhaps the most important function of state. Besides, all round development of individual and society through the realisation of four purusharthas i.e. Dharmartha, Kama and Moksha has been conceived by the Nationalist scholars as the primary guiding force of state. It is also realised that the reach of state in ancient India was often overwhelming. State under personalities like Ashoka would become all encompassing and it would venture into controlling every aspect of the human life. Concept of 'paternalism' would sometimes

1. Ghoshal, U.. op cit. p. 553

2. Ibid. – p. 553

degenerate into an over interfering state. In this context Beni Prasad observes it (State) would regulate everything. It concerned itself as much with the material as with the higher interests of the subjects.’¹

K.P. Jayaswal, was one of the earliest propounders of the notion that state in ancient India was concerned with the well being of the masses and always cherished the ideals and values of Democracy. He quite clearly underlines the fact that ‘state under Monarchy in the eyes of the Hindu was a trust.’² The trust, the state thus created for the prosperity of the people; It is this underlying, principle which...culminated in the fixed maxim that the king is the servant of the people getting his wages.³ He further opines, ‘The end of the state was to secure peace and prosperity of the people, sacerdotal duties were never imposed upon the king. He was never a priest even in the vedic age. By Prosperity was meant of course the immediate material prosperity and Moral prosperity in its turn as a corollary.’⁴ Another important feature of an ancient state, according to Jayaswal was its ‘civil character’. ‘war was to be avoided as far as it was possible, and especially so, for

1 . Beni Prasad – The state in Ancient India – p. 205

2 . Jayaswal K.P.

3 . Ibid.

4 . Ibid.

conquest. This was more or less a settled principle of Hindu politics. Militarism as a feature is every where absent.¹

If Jayaswal traces the elements of trusteeship in ancient Indian concept of state, Bhandarkar thinks that the general policies followed by the Kautilyan state were akin to modern concept of socialism. He remarks, 'those who have read Kautilya carefully cannot fail to be impressed by the state policy which is fairly well indicated in his work and which looks like modern state socialism.'² Elaborating on such hypothesis, he further comments, 'the state of Kautilya owned all the most important gifts of nature, such as agriculture land, the mines, and the forests and managed them by the creation of different Adhyaksas or superintendents. The state took active steps for the formation of new colonies..... The state certainly owned agricultural land at least in these new settlements and appointed Sitadhyaksha or superintendent of agriculture;³ Bhandarkar also draws our attention to the fact that, 'there were not only industries which were state-owned and state-managed, but also industries in which the state was a joint partner. The state similarly participated, in its own capacity, in trade and commerce and devised various laws to control prices and profits, and exports and imports of the country. All these are

1 . Ibid. p. 343

2 . Bhandarkar D.r. – op cit. p-16

3 . Ibid. p.

features which the Kautalyan states possessed apparently in common with the modern state socialism.¹

Beni Prasad studies the basic features of Ashokan state to understand the nature and scope of state in ancient India. He opines, Ashokan state is of first rate importance in the study of Hindu institutions.... It represents in concrete forms the ideal of Hindu state.² It is suggested by him that Ashoka through his policy of Dhamma gave altogether a new meaning to the concept of state in ancient India. State under Ashoka became a harbinger for material and moral development of man and society. Paternalism, great labour for welfare and universal toleration, which formed the kernel of Dhamma, also became the guiding principles of state.³ Humanitarianism which involved proper courtesy and kindness to servants and slaves..... and character building in the form of every one speaking the truth guarding one's speech among other things, also constituted a part of state policy.⁴

Other historians like Banerjee, Aiyangar, Sarkar, N.C. Bandopadhyay etc. also found such elements in the state of early India which correspond to modern notions of democracy and socialism. According to Ghosal a concerted effort on the part of

1. Ibid. pp. 16-17

2. Beni Prasad – The state in Ancient India.

3. Ibid. pp. 196-197

4. Ibid. pp. 198-201

state to remove poverty and misery is evident in the literature highlighting the political life of ancient India. He observes, 'the essence of kingship in an old vedic text, the early Brahmanical works on sacred law (Smiriti) introduce us to the conception of a welfare-state with its programme of universal protection and state-relief of the poor and the friendless, its two fold objective of ensuring freedom from hunger and from want, and its standard of complete identification of the ruler with his subjects.'¹

P.V. Kane endeavours to delineate the end of state by analysing the Dharmasastras. He observes that the authors of Dharmasastra had a very low estimate of human nature... and that men were kept in the straight path by a fear of punishment.'² Another important characteristic of Dharmasastra as understood by Kane was that the Dharmasastra authors held that Dharma was the supreme power in the state and was above the king. Who was only the instrument to realise the goal of dharma. To these authors the state was not an end in itself but only a means to an end.³ To understand the aim of the state Kane advocated to divide them into immediate or proximate ends and the ultimate end.⁴ Having done so Kane observes, 'The ultimate end or goal of most of our

1 . Ghosal, U.N. op cit. p.4

2 . Kane, P.V. op. Cit. p. 238

3 . Ibid. p. 241

4 . Ibid. p. 238

philosophy was moksa. The same was the ultimate goal of Rajadharma.¹ He further remarks 'But the proximate goal of the state in India was to create such conditions and environments as would enable all men to live in peace and happiness, to pursue their avocations, to follow their own customs and usages and their svadharma, to enjoy without interference the fruits of their labour and the property acquired by them.'² The close proximity between state and four fold aims of life is sought to be established by Kane when he writes, 'The goal of the state was deemed to be enable men to attain the four purshasthas, particularly the first three.'³ Kane, however also direct our attention towards the shadower side of state as well. He laments that most of the ancient writers laid undue emphasis on the preservation of the status quo nor did they emphasis that each individual must actively pursue the good of the society as a whole.⁴ He also thinks, 'As the final goal was moksa, undue emphasis was laid on other-worldliness, on individual attainment and on detachment and running away from ordinary worldly affairs.'⁵

It was not only Kane, but there were many others who took the four Pursustras to be the guiding principle of state policy in

1. Ibid. p. 238

2. Ibid. pp. 238-239

3. Ibid. p. 240

4. Ibid.

5. Ibid.

ancient India. The concept of the *pursusarthas* which was originally a socio-ethical concept meant to assist the human beings in realising their inner self, gradually began to influence the ideals of the state as well. Both Buddhist and Brahmanic literature repeatedly emphasis that state had its rationale in the all round development of society and economy. When the literature on politics began to be developed, Altekar says, we find that promotion of Dharma, artha and Kama are usually mentioned as the aims of the state.¹ However, the nationalist historians have interpreted there ideals in such a way, as to indicate that, state was primarily concerned with the welfare of society as whole. The state, says Altekar, was to promote dharma not by promoting any particular sect or religion, but by fostering a feeling of piety and religiousness, by encouraging virtue and morality, by maintaining free hospitals and feeding houses, for poor and decrepits and last but not the least by extending patronage to literature and sciences.² The promotion of artha was to be procured by encouraging trade industry and commerce and by developing national resoures.³ The state was to promote Kama by ensuring peace and order to that each individual may enjoy life undisturbed, and by offering

1 . Ibid.

2 . Ibid. p. 48

3 . Ibid.

encouragement to fine arts like music, dancing painting, sculpture and architecture in order to promote aesthetic culture.¹

Thus we can see, that the nationalist thinkers in general, regard that the state in ancient India was concerned with a number of activities aimed at the general welfare of the people. The ideal of perfect development of the individual to the full development of the society was recognised. Says Altekar, only they have not used the modern terminology.² Even though the jurisdiction of state in Ancient India was very extensive, it could never usurp the powers and functions of society. 'The ancient Hindus evolved distinct organisation of their own, both political and social, each functioning in the limited sphere of action. In this structure of society the individual was a member of the group and was in the group.'³ Countering the view point, that individual liberty was hampered by the all encompassing activities of state, Altekar says 'The principle of decentralisation was carried to a very great extent and extensive powers were delegated to the village Panchayats, city councils and trade guilds, and the state carried on its socialistic activities with the active cooperation of these popular bodies. There was hardly any encroachment on the individual liberty. Ancient Indians permitted the state a wider sphere of

1. Ibid. P. 48

2. Ibid.. p. 49

3. Dikshitar, V.R.R. – op. Cit. p. 27

activity not because they did not value individual liberty but because they felt that the state could organise them by reconciling conflicting interests.¹

In addition to decentralisation, 'supremacy of law', was another important means by which the ruler could not become absolute. The administration and the administrative machinery was not interested with legislative functions.² The king and his agents who carried on government were as much subject to the law as the subjects themselves.³ This absence of legislative power in the administration takes away one important influence that had a tendency to make the ruler degenerate into an autocrat.⁴ The law was customary and thus beyond human legislation was also supported among other by Banerjee.⁵ and Dikshitar.⁶ Even though 'state' and 'society' were individual entities with their own laws and activities, and as a principle state could not interfere with the activities of social organisation, Dikshitar points that 'It was not absolute non-interference.'⁷ 'The policy of the state was, in other

1. Altekar, A.S. op cit. p. 60

2. S. K. Aiyangar in introduction to V.R.R. Dikshitar's Hindu administrative institutions-pp. XXII-XXIII

3. Ibid. p. XXIII

4. Ibid. - p. XXII

5. Banerjee, P.N. - op cit. p. 132

6. Dikshitar V.R.R. op cit. p. 24

7. Ibid p. 25

words individualistic in character. That means the sphere of governmental activity was limited to a considerable extent.’¹

Was there a ‘Nation-State’ in Ancient India ?

The development of nationalism seems to be the chief goal according to modern political science, but in the time of Kautilya the chaturanta state or the imperial state over the whole Aryandom was looked upon as consisting the most coveted state according to Hindu polity.² Altekar says the problem of race, nationality, language, religion which are invariably associated with the modern day nation. State, has not been discussed by ancient Indian thinkers.³ Citing reasons for this, Altekar further points out, ‘All the foreigners who were coming into the country, used to be rapidly indianised and completely absorbed in the Hindu Community. Thus the different states in ancient Indian did not at all differ in race, language or religion. Most of them had developed into separate entities primarily owing to individual ambition, administrative convenience or geographical considerations.’⁴ Thus, the modern historians observe, that the problem of nationality, which in recent times has been, more than any other factor,

1 . Ibid. - p. 25

2 . Bhandarkar, D.R. op cit. p. 74

3 . Altekar, A.S. – op. Cit. 46

4 . Ibid. – p. 47

responsible for wars and destruction, was not found in ancient Indian polity.

State and Egalitarianism

It is often contended by critics that state in Ancient India, by championing the cause of varnaashrama, dharma, supported inequality among people. But Altekar does not agree with such arguments. The state was not interested in enforcing caste iniquities, if any cases actually arose, they must have been decided by the caste or the village panchayats, which were purely non official bodies.¹ The iniquities of Hindu social order was due to narrow mindedness of the Hindu society of the age and not to the states making dharma as one of its aims.² Altekar while exonerating the state from being responsible for social inequality also observes that 'we should not judge ancient customs and institutions by modern standards and ideals.'³ Faith in the doctrine of karma has led even sudars and untouchables to believe that disabilities imposed upon them was divine. It was impossible for the ancient Indian state even to think of disallowing these disabilities much less of removing them. In the same context, Altekar draws attention to the fact that such iniquities and

1. Ibid. - p. 51

2. Ibid. - p. 50

3. Ibid.- p. 385

inequalities existed in all civilizations, eastern and western.¹ If the fine for murdering a sudra is lighter than that for murdering a Brahama, we should not forget that the wergeld for the head of a slave or a serf was much smaller in Europe than that for the head of a knight or a landlord. Limited exemption from taxation sometimes sanctioned by the ancient Indian state to the Brahmanas had its counter part in European polity. Where the church and nobility enjoyed many unjust exemptions down to the 18th century.²

But there are some scholars, who do not agree with the views of Altekar and who beside pronouncing the positive aspects of Ancient Indian state also discuss its drawbacks. P.N. Banerjee observes 'The great drawback of the state in ancient India was that the rights of man as man were not fully recognized. Individuals has right and duties not as component parts of the body politic but as members of estates or classes in society.'³ Similarly, Beni Prasad though acknowledges that 'State in ancient India encouraged economic activities, undertook humanitarian measures, encouraged cultural development and uplifted the moral and intellectual life of individual,'⁴ delineates its shortcoming in

1. Ibid. p. 385

2. Ibid.- p. 385

3. Banerjee, P.N. op cit. p. 41

4. Beni Prasad – The state in Anc. India p. 513

following words 'The Hindu state sanctioned too many tolls and petty dues and too much forced labour. It failed signally to reclaim the tribes on the frontiers or in central India. It fell a victim to caste and deliberately refused to bring the lower classes into line with the rest of Hindu society or to encourage their higher life. It allied itself with priest craft and conservatism and helped perpetuate the distinction between man and man."¹

Was the state in Ancient India a Theocratic ?

Theocracy represents a condition when the state is totally overwhelmed by the religion. The head of the state is priest, if not so, the ruler is under the complete control of the church. The law is supposed to be divine which can be interpreted only by the religious head. With regards to the ancient India, it is generally assumed that, though religion had its influence on the body politic, state was not theocratic. Banerjee says, 'although the social organisation contained within its bosom the Brahmanic theocracy and was to a large extent dominated by it, the state itself never became a theocracy in the proper sense of the term.'² The reasons cited by him are . "First, the ruler was never regarded as the head of religion. Secondly, the primary object of the state was not spiritual salvation, but social well being, Thirdly, law, mingled as it

¹ . Ibid.

² . Banerjee, OTGit . p. 39

was with religion and morality, was the chief source of the authority of the state. And lastly, the political status of individuals was independent of their religious beliefs and convictions.¹

Even though the state in ancient India. As viewed by the nationalists, was not a theocratic one, but no one could deny that religion had profound if not over whelming influence over the concept of state. Traditional accounts about kingship (as given in Brahamans Smritis, Mahabharat), while speculating upon its origin and nature, resort often to the concept of divine intervention, in order to establish the authority and legitimacy to the institution of monarchy. But the notion about divinity, as upheld by the nationalist is reflected through the words of Altekar when he observes, 'it was not the person but the office of a king which was divine.'² It was perhaps assumed that bestowing divinity upon the kingship was but an attempt on the part of ancient theorists to enhance the prestige and power of Monarchical form of government. Kane echoes the general sentiment of the nationalist historiography when he says, 'the practice of divinity was for glorification of rulers.'³

Notwithstanding the fact that most nationalists accept the prevalence of divinity being imparted to the office of king, none of

1 . Ibid. -

2 . Altekar, A. S. op cit. Bhandarkar, D. R. io. Cit. p. 145

3 . Kane, P.V. op. cit. p. 24

them however, believes that, divinity was extended to the theory of 'divine right' as was claimed by the European monarchs of the middle ages. Banerjee observes, 'Kingship in India was a political office and not the sphere of power of a fortunate individual. The king was the chief of the nation, and not the owner of the territory over which he ruled. The state existed for the well being of the people and king held his position as the head of the state only so far as he was expected to further such well being.'¹ Associating the divinity with the behavior of the king, he further says, the king in India was invested with something like a divine halo but it was only a righteous monarch who was regarded as divine.'² A somewhat similar views are reflected by the writings of Dikshitar when he underlines the fact that the king was a human being and the divinity imparted to him was functional and conditional. He opines, 'A king is after all a man, an ordinary human being. It is the ceremony of consecration which invests him with sovereign powers and duties. And so long as he maintains this position by the observance of rules laid down, he is entitled to respect as a devata. He is not, therefore, devata in essence, but a naradevata.'³

Bhandarkar, like other nationalists firmly believed in the limited role of religion on the polity of ancient India. He sought to

1. Banerjee, P.N. op. Cit. p. 72.

2. Ibid. p. 71

3. Dikshitar V.fr.R.- op. Cit. p. 61

overcome the criticism, levelled mostly by the western thinkers, that state was totally under the command of religion, by pointing that close association of religion and polity in its early days of human civilization was a common phenomenon in most of the societies. He remarks, the idea of the divinity of a king is not confined to India alone. It is well known that pharaohs of Egypt were styled sir-reor sons of the sun-god...This pretention to divinity seems to have been borrowed from them by ptolemies of Egypt and also by the Seleukids.¹

To give credence to his view that there was no such concept as theory of 'Divine right' in ancient India, Ghoshal compares the Indian notion of divinity with its European counterpart. He opines that both are similar to the point that political authority is a divine instituion which must be obeyed by the peoples but the Indian theory from first to last does not present a parallel to the theory of 'Divine right' as conceived in the middle ages, and more fully in sixteenth and seventeenth centuries of European history.² Ghoshal draws our attention to the fact that European notion of divine right was raised on the principles that, king was accountable to god alone. People had no right to resist the authority of king say what the situation may be; the right to govern was inalienable and independent of human agency. Arguing that such ideas were never

1 . Bhandarkar – op. Cit. p. 145

2 . Ghoshal, U.N. p. 145

present in early India he says 'Indian king is conceived to be subject to limitations for which few if any analogies can be found in the parallel examples,'¹ to support such a view point, Ghoshal cites many instances from the ancient vedic and Brahmanic sources. He remarks, 'In the case of vedic kings there (limitations on king) consist in the ancient belief in an omnipotent law or custom, separation of temporal from the spiritual power along with the dogma of divine creation of social order, and the doctrine of sacrifice elevating everybody entitled to the sacrifice to a divine status. In the smritis the limitation of a divine king comprise those imposed by the law of the kings' (Kshatriya's) order, the rule of the state law and lastly the title of the subjects to resist the evil ruler in varying degrees which is founded implicitly upon their fundamental right of selfpreservation and explicitly upon the theory of derivation of the temporal power from the spiritual.'² It is argued by Ghoshal that such a profound difference lies in the fact that the temporal power in medieval Europe countered the absolute dominance of papacy in the affairs of state policy, and claimed for themselves the concept of divine right. The divine right of kings on the political side was little more than the popular form of expression for the theory of sovereignty.' On the contrary, it is upheld by Ghoshal, 'the history of India through the centuries, so

1. Ibid. p. 544

2. Ibid.

far as we can make it out from the available authentic records, furnishes no instances of political authority having to meet a similar challenge, or feeling a similar urge for its expression,'¹

Altekar, in order to study the presence or absence of Theocracy in ancient India. Divides it into two parts, one before the christian era and the other after it. Though the Brahmanic literature show the predominance of religion over polity, Altekar opines, it would be wrong to suppose that even in the vedic period. The king or the state was under the leading strings of the Brahamana or the church. Generally speaking the priest was treated with decorum; he spiritual help offered by his rituals and sacrifice was welcome.² From about the 4th century B.C. the influence of theology on the state began to decline further.³ Altekar suggests that it might have been due to the following reasons : "the vedic sacrifices fell into disgrace and disuse, which naturally undermined the influence of the chaplain. Politics developed into a special science and princes naturally studied it assiduously in preference to the vedic lore or the upanishadic philosophy. Positive law began to be differentiated from religious rituals and traditional customs,"⁴ Hindu polity thus succeeded in emancipating itself from

1 . Ibid. p. 542

2 . Altekar, A.S. – op. Cit. p. 54

3 . Ibid. 55

4 . Ibid.

the leading strings of theology by the beginning of the christian era.¹ The king was no doubt regarded as the enforcer of Dharma. However the Dharma was not concerned with particular religion but with piety, religionsness, virtue and morality',²

Kane's notion about the concept of divinity and its connotations in ancient India follows the general trend of the nationalist historiography. He thus remarks, 'But it should not be supposed that this glorification of the king resulted in the full fledged theory of the divine right of kings or that every king, however bad, was looked upon as a divinity or could do what he liked.'³ Analysing the ancient literature Kane proposes that, some of the factors which circumscribed the power of a king were, limited authority of king over the Brahmanas, accessibility of divinity even to the praja or subject, allowance of deposing and even killing of those kings who did not follow the path of Dharma⁴ In the same view, he further writes, ' In fact in all the works on polity we find comparatively little about the king's rights and special privileges, but on the other hand the greatest emphasis is laid on the king's duties and responsibilities. Some works describe the kings as a servant of the people whose wages or remuneration

1 . Ibid.

2 . Ibid. - 48

3 . Kane. P.V., op cit. p. 25

4 . Ibid. pp. 25-27

for the protection he affords is the taxes he raises.¹ The contradictory doctrines of divinity of kings on the one hand and the right of tyrannicide granted to people is explained by Kane when he makes following observation, 'the apparently contradictory dicta (of divinity and tyrannicide)... are delivered from two different standpoints and are addressed to different persons. The writers believed in maintaining the status quo about the duties of varnas and assamas in the privileges of the respective caste and in the progressive deterioration of dharma in the ages to come and wanted a strong king to preserve the social order. Therefore the king was raised to divinity and absolute obedience to his orders was demanded. This was addressed to the people in general. There was danger however of bad kings and ministers oppressing the people by misrule. Hence the king and his ministers were threatened with destruction and death. These dicta were principally meant for the king and his advisers.'²

Like Ghoshal, Kane also compares and contrasts the ancient Indian concept of divinity of kings with that prevalent in 16th and 17th centuries of Europe. The theory of divine right of kings in its complete form involves the following propositions : (1) Monarchy is a divinely ordained institution (ii) hereditary right is indefeasible i.e. the right acquired by birth and descending by the law of

1. Ibid. p. 27

2. Ibid.

primogeniture cannot be forfeited through any act of usurpation. Or by any incapacity of the heirs or by any act of deposition (iii) kings are accountable to none, i.e. a limited monarchy is contradiction in terms. (iv) non-resistance and passive obedience are enjoined by god i.e. in any circumstances resistance to the king is a sin and leads to damnation. Comparing this theory with the ancient Indian notion of kingship, Kane observes that proposition I was present and II was also there, but with some exceptions.¹ Regarding the propositions III and IV he opines, 'they (our ancient books) say that the king cannot do as he likes, that he has to carry out the dictates of dharma, his powers to make new rules is limited and if he does not act up to the rules of dharma he may be deposed, disobeyed or killed.'²

1 . Ibid. p. 36

2 . Ibid. pp 35-36

II

ORIGIN OF STATE

State, according to most of the historians, is a human institution, the origin of which can be traced in the society itself. The ultimate origin of state, in India as elsewhere is, to be found in human nature.¹ It is also assumed by many scholars, that state is not coeval and coextensive with society, but emerges within it after a lapse of time. Aiyangar writes 'the state according to Hindu notions, does not emerge till after a considerable degree of travail in the life of society as a whole.'² Similarly Dikshitar observes 'A close study of the various texts gives indication of the fact of the historical or evolutionary development of the state, Government.'³ Speculating on the origin of state, Altekar and earlier to him Banerjee put forward the view that, the system of 'joint family'⁴ among Aryans might have facilitated the origin of state in Ancient India.

Modern writers on Ancient Indian Polity, demonstrate that the twin tradition of 'divine-origin', and 'contract theory', regarding the origin of state, are present in the ancient Indian literature on

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- 1 . Banerjee, P.N.- Public Administration in Anc., India – p 38
 - 2 . Aiyangar, S.K. in introduction to Dikshitar's Hindu Administrative Institutions P. XVIII
 - 3 . Dikshitar, V.R.R. – State and Govt. in Ancient India p. 35
 - 4 . Altekar A.S. State and Govt. in Ancient India p. 35

polity. These theories, though divergent, agree on two accounts; 'both schools hold (I) the state had its origin in necessity, and (ii) that the object of its establishment was the common weal.'¹ Comparison of the Indian theories, with their counterparts in Europe is often resorted to and it is sometimes pointed out that the views of locke, hobbes etc. can be traced in Ancient Indian works on polity.

Theory of Divine Origin

State according to the theory of divine origin is not a human creation representing the 'common will' and reasoning' of the community, but to use the words of P.N. Banerjee, 'it is 'the immediate work of God,'² The basic suppositions of this theory is that the society without a state and government is characterised by anarchy and chaos in which weak is devoured by the strong. To overcome such a situation God created the institution of kingship whose basic function it to maintain law and order. It is generally assumed by most of the nationalist historians that ancient indian literature on polity, galore in depicting the theory of divine origin in one form or the other. The remarks of U.N. Ghoshal, reflects the common view point of majority of the scholars, when he writes. ' the theories of the divine creation and affinity to the temporal ruler,

1 . Banerjee, P.N. op cit. p. 37

2 . Banerjee, P.N. – Op. Cit. p. 36

occupy an important though not a fundamental, place in ancient Indian political thought',¹

D.R. Bhandarkar while analysing the concept of divine origin, distinguishes between the 'quasi-divine', and divine versions of this theory. He feels that, the theory of divine origin in nascent state can be traced in yajus-Samhitas and Brahmanas especially taitriya and satapatha; but its fullest expression is found in the views of manu and Bhisma, where the thing is not just the abode of regent gods like yama, Kubera, wind etc. but created by the supreme God prajapati. Account of Indra acquiring lusture from prajapati and their sovereignty given in Taittiriya Brahmana, according to Bhandarkar, tallies pretty closely with the theory of the divine origin of sovereignty.² Bhandarker further opines that a somewhat developed version of this theory, where king is not merely compared to the gods but is actually called Indra, yama and dharma is found in chapter 72 of the Shantiparvan in the form of a dialogue between the wind God matarisvan and King Pururvas.³ Comparing the western concept of divine origin of kingship according to which the term divine always means that which belongs to supreme God, Bhandarkar observes, none of these (Indra, yama and Dharma) either separately or jointly can be called

1. Bhandarkar D.R. op cit. p. 116

2. Ghoshal U.N. op cit. p. 540.

3. Ibid. p. 125

the supreme deity.¹ Having said this, he further writes, 'Perhaps it will be better to use the word 'Super-human' or 'quasi divine', in this connection to denote an origin or connection with minor deities, reserving the word 'divine' to denote essence or relationship with supreme God.²

Accounts given in manu and some chapter of Shantiparvan are, according to Bhandarkar, a step further in the direction of the notion of Divine origin. Quoting the verse from manu where it is mentioned that king is not only a deity but also a creation of the supreme, he (Bhandarkar) says, for the first time therefore we find a trace of the real divine origin of kingship similar to that propounded by the western thinkers.³ Similarly the version given in chapter 59 of Shantiparvan where, Vishnu after consecrating prithu, 'Himself' entered this body, is also, in view of Bhandarkar an example of a fully developed theory of divine origin. The king according to this theory is a human god created and permeated by supreme-being.⁴

Nationalist scholars like Banerjee, Dikshitar, Ghoshal among others, also trace the theory (of divine origin) in ancient literature. Banerjea suggests that 'after the establishment of a

1 . Ibid.

2 . Ibid.

3 . Ibid. p. 132.

4 . Ibid. p. 135

hereditary kingship there grew up the theory of the divine origin of the institution.”¹ He further observes, “This theory is first hinted at in the late vedic literature, and afterwards, elaborated in the Epics, the Smritis and the puranas. The Atharve-veda and some of the Barhmanas contain the germs of the theory, and its soon developed into a sort of political principle.”² Dikshitar begins his study of the origin of kingship by assuming that ‘the divine origin of kings was a common notion among the ancient peoples of the world.’³ If this proposition is taken as a base then ancient India witnessed the emergence of divine theory of monarchy would be no exception. It is thus remarked by Dikshitar, ‘the divine theory of kingship is commonly found in the law-books, the Mahabharata and even some of the puranas. Falling in line with Ghoshal, Dikshitar too accepts that Divinity was associated with king not only to enhance the prestige of his office but also to counter the tendencies inherent in the older theory of kingship. He thus observes, ‘The idea underlying this is that the monarchy was the highest official, paid for his services like every other ordinary officer, To counter unhealthy tendencies the authors of the Dharmasastra and the Arthasastra contrived to hedge the king with the divinity familiar with Hindu political theory.’⁴

1 . Banerjee, P.N. op cit. p. 70

2 . Ibid. pp. 70-71

3 . Dikshitar, V.R.R. – op. Cit. p. 57

4 . Ibid. p. 60

U.N. Ghoshal on the basis of passages of kingship in manu and Bhisma which talk of the origin of kingship, proposes that 'According to the Indian thinkers, therefore, kingship is a divine, institution which must be obeyed by the subjects because it exist for their own well-being and the functioning of the social order.'¹ Ghoshal trace the origin of the theory of divine origin to 'the vedic dogma of creation of the four castes.... Involving the notion that the Kshtriya or the ruling order was invested with political authority by divine ordination.'² In contrast to Bhandarkar who thinks that the vedic and Barhmanas impart but quasi-divinity to king because the supreme diety was not associated with God, Ghoshal observes, 'one version of the origin of divine kingship in the yajur-samhitas and the Brahmanas implies that political authority was not only created, but endowed with his own attributes by the highest deity, Prajapati.'³ Nevertheless, Ghoshal also pronounces that the highest deity prajapati being associated with king. 'first assumes real imporatnce' in the thought of manu and Bhisma.⁴

However some scholars like Jayaswal vehemently oppose the view that divine theory can ever, be traced in the ancient Indian tradition. To support his notion, he argues, 'divine theory of kingly

1 . Ghoshal, U.N. op cit. p. 540

2 . Ibid.

3 . Ibid.

4 . Ibid.

origin and kingly right could have found soil in Hindu India if there had been no live interest and constitutional jealousy in the people to check such pernicious claims and motions..... Jugglery in the divine name of the creator was not possible for the Hindu king as the race never allowed the craft of the priest to be united in the office of the ruler,'¹ 'He also remarks' with the actual observation of the sacrament of coronation oath, it was impossible for a theory, of origin other than human to take root in Hindu politics,'² Jayaswal believes that the Hindu approach to the divine theory of kingship is to be found in manava-dharma-sastra which mainly aimed at defending the rule of the Branhim Pushyamitra.³It was such an intention which led manu to preach that the king should not be despised because he was only a man: he was a deity in human form.⁴ Commenting upon the relevant passages of Manava Dharma sastras, Jayaswal makes following observation, 'He (Manu) leaves out the theory about the election of manu vaivasvata and takes apparently the story of vena. He says God created king to save the people from arajaka. But he ignores the further tradition of the deposition of vena of divine origin because he ruled unlawfully.'⁵ The manava code he further writes, twists the import of the

1 . Jayaswal, K.P. op cit. p. 228

2 . Ibid. p. 224

3 . Ibid..

4 . Inid. pp. 224-225

5 . Ibid. p. 225

coronation ritual invoking the help of gods to the elected king in his new career.¹ In his effort to understand how could manu formulate the, divine origin of kingship it is conjectured upon by Jayaswal, that such a theory might have been developed by the version found in Arthasastra where a spy, confronted by the social contract theory of kingship put forward by an other spy, proposes the divine theory of kingly institution. Commenting upon this episode, Jayaswal says, no divine origin of king is preached in the passage nor is any absolutism preached their.² He (the government spy) is only drawing attention to the position of the king as such resembling that of Indra and yama, and to the sin which would be caused if the people went against the king.³ Juxtaposing this (arthasastra's version) with that of manu's version, Jayaswal comments 'The author of manva code made his king divinity itself, to despise which was to be punished with powers of absolutism. And he preached perfect absolutism,'⁴ This he (Manu) has to do as he had to support an abnormal state of affairs opposed to law and tradition viz, political rule by Brahmin.⁵

It is proposed by Jayaswal, that the theory of manava was never approved or adopted by a single subsequent law-book. Not

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1. Ibid.
 2. Ibid. p. 226
 3. Ibid.
 4. Ibid.
 5. Ibid.

only this, he also thinks 'even in the manava itself, either when it was revised and put in its present form, or originally in its desire to justify the removal of the mairays, the theory was superseded by another theory where...the king is again brought down under law; he is reduced to his human and contractual status, A higher origin to law was attributed. The king was aggregate of only portions of several gods, but law and sanction was produced by Brahma Himself and it was his own son. He came to rule over the king as over the whole world.¹

P.V. Kane however do not subscribes to most of the hypothesis put forward by Jayaswal. He does not suport Jayaswal's supposition that the theory of social contract was the earlier and that the theory of divine kings was later on propounded by the manu smriti to support the Brahmana empire of pushyamitra.² Citing instances from Rigveda, Atharva veda, and Satapaths Brahmana, Kane, proposes that, the germ of the theory of divine right of kings probably goes back even to the Rigveda.³ Some of the passages of Arthasastra, manu and mahabharat which are generally interpreted by scholars like Jayaswal to reflect the notion of social contract is opposed by Kane. He thus said that Kautalya though refers to the legend that manu vaivasvata was made a king

1. Ibid. p. 227

2. Kane. P.V. op. Cit. p. 32

3. Ibid.

by the people... But he (Kautalya) is silent as to whether manu made any promise to the people.¹ Similarly the twin traditions of prthu and manu respectively in chapters 59 and 67 of Shantiparvan are so interpreted by Kane that they seem nearer to the theory of divine origin than to the notion of social contract. Commenting upon the reference to prithu taking oath before consecration, he observes. 'in this account the oath administered to prthu was so administered by the gods and sages and not by the people in the mass, nor does parthu expressly promise anything to the people as such, Probably it was thought that the promise to the sages was impliedly a promise to the people in general. But the account, such as it is, rather appears to emphasise the divine origin of kingship.'² In the story where manu becomes the king after great reluctance and persuasion, Kane observes, 'Even here manu. Promises nothing expressly, while the people agree to pay taxes and answer for their own sins.'³ Summing up his argument, Kane remarks, 'the conception in both (Maharharat versions) is mythological and the fundamental fact in both is the same. God gives a king to the people in both, when they were without a king and degeneracy had set in. Though there is no offer to give a share in chapters 59 yet it is to be inferred from the pratijna of vainya

1 . Ibid. p. 31

2 . Ibid. p. 33

3 . Ibid. p. 34

that every subsequent king was deemed to do the same. It may be said that in chapter 67 there is blending of the theory of the divine right and of an original compact between king and the people. In both, however, the emphasis is on the theory of the divine origin of kingship.¹ Kane also counters Jayaswal's assumption that the theory of manava was never approved or adopted by a single subsequent writer. He (Kane) says Narada and others espoused the same theory.

Theory of contract for the origin of state :

It is held by most of the nationalist historians that, kingship for that matter state originated as a 'contract' between the 'ruler' and the ruled. K.P. Jayaswal says political writers of ancient India held that the first king was elected on certain conditions or a contract, and that original contract was always enforced subsequently... this contract found support in vedic hymns and songs of royal election, in rituals of royal consecration which were based on elective principles, and in the coronation oath which made the king swear that he should rule according to law.² The relation between the king and his subjects was one of mutual obligation and the former enjoyed the trust of the later, till he cared for the well being of people, is generally professed by the ancient

1 . Ibid. p. 34

2 . Jayaswal, K.P. – Hindu polity p. 185

theorists. P.N. Banerjee writes 'whatever may be the character of monarchy on the surface, there is no doubt that at bottom the relations between the ruler and the ruled were contractual. It was in return for the services he rendered to the people that he received their obedience and their contributions for the maintenance of royalty.'¹ He quotes the relevant sections from 'Baudhayana', 'Chanakya' 'Sukranitisara', and 'Mahabharat' in support of his claim.²

In Europe the concept of contractual relation between ruler and ruled was a natural outcome of the belief that ruler was a part of community who owes his position through election. This was developed by seventeenth century thinkers like grotius, hobbes pufendorf and locks, which is characterised by three essential factors namely (I) the state of nature (ii) the social compact and (iii) the governmental compact. A resemblance between Indian theory of contract and its western counterpart, has been drawn by scholars like Bhandarkar, P.N. Banerjee, Beni prasad. U.N. Ghoshal, however besides underlining similarities also points out the differences between the two. State of Nature, depicted in Digha Nikaya bears some resemblance to locke's state of Nature,³ and the account of social contract given in chapter 67 of santiparavan

1 . Banerjee, P.N. – op cit. p. 72

2 . Ibid. p. 73

3 . Bhandarkar D.R. op cit. p. 119

makes closest approach to that of hobbes.¹ Beni Prasad citing examples from Mahabharat points out that, the state of nature, preceding political society depicted in chapter 59 of santi parva 'reminds one of Grotiuse, pufendorf, lock and even the Rousseau of Discourses',² while that depicted in chapter 67 of the santiparva, is 'reminiscent of Hooker and Hobbes'.³

Bhandarkar thinks, the earliest glimpses of contract theory, about the origin of state, is found in Aitareya Brahamana. Here 'Gods', waging war against 'Asuras' and unable to prevail over the latter, assemble and elect Indra amongst them as king, and performed the consecration ceremony (Mahabhisik) on Indra. This bears resemblance to the social contract theory of the western thinkers in that he was elected to kingship by the class of beings to which he belonged.⁴ But the governmental compact entered into by both the parties is conspicuous by its absence, hence Bhandarkar regards 'this is a theory of social contract which is yet in an inchoate condition and has not become full-fledged.'⁵

The advanced version of social contract, according to Bhandarkar, can be traced in the relevant sections of Digha Nikaya, Arthasastra and mahabharat. The state of nature

1. Ibid. – p. 138

2. Beni Prasad – Theory of Govt. in Ancient India – p. 28

3. Ibid. – p. 29

4. Bhandarkar, D.R. – op. Cit. p. 115

5. Ibid. – p. 115

characterised by peace and harmony, gradually degenerating, and people assembling to choose one among them who consented to punish, revil and exile those, who deserved it, as given in digha nikaya, is in view of Bhandarkar, an advance from the version given in Aitareya Barhman, because it clearly demonstrates a governmental-compact.¹ It was not a one-sided contract which is clear from the fact that the ruler so elected consented to do his duty, and actually received a portion of rice from them.² Bhandarkar however adds that there is no clear evidence of any social compact which preceded the government compact.³ The most complete representation of the social contract, as under stood by Bhandarkar, is found in chapter 67 of the Shantiparvam. Comparing this version with the one given by European authors, he thinks that it bears a remarkably close correspondence, with that propounded by Hobbes, as it clearly delineates all the three constituents of social contract theory viz a 'state of nature' a 'social compact' and the 'governmental compact,'⁴ Bhandarkar describing the relevant section, observes, 'the state of nature was a state of war, which was, for the time being, silenced by men drawing upon a social compact which ensured peace and amity. Soon after, however, confusion arose again, and they were compelled to give

1. Bhandarkar opcit. P. 118

2. Ibid.

3. Ibid. p.119

4. Ibid. p. 122

their liberty into the hands of sovereign by means of the governmental compact.’¹

Ghoshal like other nationalist historians, traces the existence of social contract for the origin of kingship in ancient Indian political thought. He like Jayaswal also believes that social contract theory was earlier to the notion of divine origin, But contrary to the majority view, Ghoshal says it was not Brahmanic but Buddhist account which clearly demonstrates the Social contract theory-Ghoshal opines, neither the Brahmanic nor the Jain theories involve the conception of the creation of the society or the state or both by contract.² The state of Nature, depicted in Bhisma’s first (Chapter 59 of Shantiparva) theory may seem to resemble, the theories of Grotius, Pufendorf and Locke, both being characterised by peace and order “ but while according to the Western thinkers it is characterised by the law of Nature in the sense of ‘the dictates of right reason’, it is based in the view of the Indian thinker upon the high moral sense.”³

The nearest approach to the Western theories is made by the Buddhist theory of evaluation of the world and of man and his institutions.⁴ The Buddhist theory says, Ghoshal furnishes a quasi

1 . Ibid.

2 . Ghoshal, U.N. op cit. p. 538

3 . Ibid. p. 538

4 . Ibid. p. 538-39

historical justification for the principle of contract by tracing the creation of the state to a bilateral governmental compact made by the people with their original ruler for escaping from the evils of the state of nature.¹ But even here the differences are more important than the resemblance. The state of nature of the Buddhists. Like that of Grotius, Pufendorf and Locke, is a condition of peace and order but unlike it belongs to a mythical age of god-like beings living upon the bounties of nature.²

Ghoshal contrasts the views of Hobbes with the Indian theory. Hobbes's method of precise definition and logical deduction results in a comprehensive system of political philosophy. Ghoshal observes, 'Hobbes deduces his famous conception of the state of nature as a condition of perpetual strife as a corollary to his materialistic view of 'felicity' as consisting in the satisfaction of desire and of 'power' as furnishing the principal means of its attainment. In the Indian theories the evil state of nature... belongs to the primitive condition of man according to the mythological ideas of their authors'³ He further writes, 'Hobbes conception of contract as involving the complete transfer of natural rights by individuals to a common superior forms the basis of his remarkable doctrine of sovereignty. The Indian conception of

1 . Ibid. p. 536

2 . Ibid. p. 539

3 . Ibid.

contract goes no further than the creation of a reciprocal obligation of taxation and protection between the ruler and his subjects, and it is rarely pressed to its logical consequence in the sense of a complete theory of the mutual obligation of the two units.'¹

The theory of social contract, thus appears to have been the dominant notion through which the origin of state in ancient india was explained. Such a theory, it seems, could, gain ground because it was not only logical and historical but possessed an added advantage in the form that it divested the influence of religion having any role in the emergence of state. Such an approach would indicate that polity in ancient India was secular and thus nullified to a large extent the western criticism which took the impact of religion to be overwhelming in ancient India. But there were few scholars like Altekar, Kane who did not accept that the theory of social contract could adequately explain the origin of state and its subsequent development.

Altekar criticising the view that social contract theory can explain the origin of state, writes 'the contract theory of the origin of government is bad history and worse logic. It can no doubt explain the origin of a particular form of state among people who have already developed governmental institutions, but it cannot explain how the first agreement took place among the members of a

1. Ibid.

community, which was still in the state of nature.¹ How the greed once absent began to warp it, they (Indian tradition) cannot explain, just as Locke cannot explain how in a society where the laws of reason prevailed, there was occasional breaches of its provisions and how, when they occurred, every party in the transaction could act as both the judge and the executor.²

Kane criticises, the proponents of the social contract theory for their assumption that, social compact was earlier and more natural a concept than the notion of Divine origin of kingship He says 'it is impossible to hold that the theory a divine right was put forward as a counter blast to the theory of social contract.'³ He further argues. 'the theory of of divine right would arise very naturally even in the oldest days, while the theory of social contract is the product of a more advanced stage of political thought. The theory of divine right is not more absurd than the theory of social contract and was popularly held not only in India, but in many christian countries, relying on passages in the Bible such as Daniel 4 and Romans 13.1-7.'⁴

Institution of joint family and origin of state

Some historians besides explaining the traditional accounts, regarding the origin of state, as given in ancient Indian sources,

1 . Altekari, A.S. – op. cit. p. 31

2 . Ibid. p. 32

3 . Kane, P.V. op cit. p. 36

4 . Ibid.

endeavour to understand those historical events which would have facilitated the emergence of state. The partriarchal joint family of Indo-Europeans, which manifested the corporate activity of community in the earliest time and the head of which often enjoyed immense power over its members, is taken by scholars like Banerjee¹ and Altekar² to have resulted in the emergence of state. N.N. Law also accepts the importance of kinship in patriarchal family for the origin of earliest state but adds that the principle of 'personal attributes' might have facilitated one particular individual or group arrogating power and privileges to itself.³

J. Farzer had put forward, what is often called as the 'magic therory' of kingship'. His hypothesis is that, the magic preceds religion in the process of human evolution. In the primitive societies magic plays a very important role in explaining the supernatural and also the natural phenomenon. In such societies magician often becomes a king as he is supposed to possess suprennatural power. Early Indian society, being a primitive society was no exception. N. N. Law however does not accept that religion is more complex and later to magic.⁴

1 . Banerjee, P.N. op.cit. p. 38

2 . Altekar, A. S. op cit. p. 35

3 . Law, N.N. Aspect of Ancient Indian Polity, p.p.-140-141

4 . Ibid. pp. 100-140

N.N. Law thinks that the partiarchal joint family might have led to the emergence of earliest state. He remarks 'the families of the primitive aryaans rose into clans, into tribes and so forth. That these assemblages of kinsmen were put to the necessity of self-protection and performance of administrative duties cannot be denied. As a sense of kinship pervaded the whole collection of kinsmen, it is probable that the burden of the political duties might be vested in one of these kinsmen, and that deference to the particular line to which he belonged might influence the convergence of power on him.'¹ Law, however does not clearly explain how a 'particular line' of kinsmen might have established its superiority, but suggests that the mental and physical qualities may have operated to elevate many of the first kings.²

P.N. Banerjea proposes a hypothesis which seems to be very similar to the one proposed by N.N. Law. Explaining the process of the origin of state, he observes, 'the primitive aryan state was perhaps based upon the family. It is probable that the family in the process of evolution grew into the clan, the clan expanded into the tribe and finally, the tribe was absorbed in the state. The head of family became the chief of the clan, then the leader of the tribe, and ultimately the ruler of the state. Although, however, the beginnings of the Indian state was connected with the family, the

1 . Ibid. p. 141

2 . Ibid. pp. 140 -141

clan and the tribe, the purely political idea gradually became more and more clear and dominant, with the result that in the course of time the state outgrew its original limitations, and became national.¹

Altekar too gives a somewhat similar narration. Aryans like other Indo-Europeans, lived in joint families, the patriarchs of which wielded wide powers over its members.² His position was more or less like that of a king amongst all the Indo-European communities.³ As 'the joint family expanded into a big federation of several natural families, springing from a common ancestor real or imaginary and living in the same village,' the senior member of the seniormost family used to be entrusted with most of the governmental functions to be discharged, no doubt, in the consultation with other elder persons of the locality',⁴ The Rigvedic evidence shows that the Aryan society in that early period was divided into families, janmans, visas, and janas. Janmans seem to have corresponded to a village consisting of people claiming a common descent, and a number of such villages joined together by a bond of kinship seem to have constituted a vis, its chief was known as viapati; several visas made a jana or tribe which had its

1 . Banerjes, P.N. op cit. p. 38.

2 . Altekar, A.S. op cit. p. 34

3 . Ibid. p. 34

4 . Ibid. p. 35

own janapati or the king.¹ This organisation resembles to the condition prevailing in rome in early days. Vedic jana probably corresponded with tribe, vis with the curia and Janman with the gen.²

1 . Ibid. p. 35

2 . Ibid.

III

FINANCIAL ADMINISTRATION

Western Scholars, in general, assumed that 'the state in India was primarily a tax-collecting institution and the incidence of taxation was oppressive.' Such stereotype was criticised by the Indian Writers on polity. The canons of taxation, says Jayaswal, settled by constitutional writers agree with the telos for which the Hindu State was created, namely, 'for prosperity, land culture, wealth and well-being.'¹ The principles, guiding the taxation policy were not dependent on the fancy of King but on Law. "Taxes had been fixed by law and the scales had been embodied in the Sacred common Law, The consequence was that whatever the form of government, the matter of taxation was not an object of the ruler's caprice."²

Economic grounds on which the tax system was based was sound and reasonable. Ability and least sacrifice were the guiding principles of the framers of the financial regulations of ancient India.³ Taxes were levied not for the personal aggrandisement of the monarch but for the welfare of the people. Subjects were obliged to pay the taxes as 'wages of the king for the service of

1. Jayaswal, K.P. – op.cit. p. 322.

2. Ibid, p. 319.

3. Banerjee, P.N.- op.cit. p. 180.

administration.’¹ For the proper development of State tax incentives were given. Altekar, summarises the principles of taxation propounded by the smritis and epics, as following.²

- (i) the taxation was to be reasonable and equitable; which meant that the state on the one side and the agriculturist or the traders on the other should both feel that they have got a fair and reasonable return for their labours.
- (ii) In the case of trade and industry, the taxation was to be on net profits and not on gross earnings.
- (iii) An article was to be taxed only once and not twice.
- (iv) Increase in taxation should be gradual.
- (v) Extra taxation was to be imposed only in times of national calamity after taking comprehensive steps to explain the situation to the people with a view to ensure a willing response.

The same principles of taxation were earlier enunciated by K.P. Jayaswal, when he says “Economic considerations are every where prominent. Productive powers is not to be hampered; profit and not capital is to be taxed; articles which lead to new industries are to be encouraged; exports which cause ‘artificial’ prosperity by

1 . Jayaswal, K.P. – op. Cit. P. 320.

2 . Altekar, A.S. – op.cit.. p.p. 265-266.

driving up prices are to be discouraged; no special protection is granted to ordinary industries; taxes should be gradual, and with reference to capacity, and not in an obnoxious form.”¹

Income of the State as given in traditional accounts, has been divided into two parts :-

- (i) Tax revenue
- (ii) Non-tax revenue.

Tax on agriculture, trade and industry were the mainstay of governmental revenue.

Land tax was the most important of all the sources of state revenue.² Smritis lay down no uniform rate of taxation, says Altekar, but the normal procedure, however, was to charge one sixth of the produce as land tax.³ When the cultivator suffered losses the state used to remit or reduce the tax as demanded by the situation.⁴ There being no permanent settlement of the land tax and smritis permitting large variation in percentage, taxes could be enhanced when required by the exigencies of the State finance.⁵

1 . Jayaswal, K.P. – op.cit. p. 326.

2 . Banerjee, P.N.- op.cit. p. 179.

3 . Altekar, A.S. – op.cit. p. 270.

4 . Ibid, p. 271.

5 . Ibid. p. 273.

A great controversy exists among the scholars regarding the proprietorship in land. This is important from the point of taxation policy. If the ownership of the land is vested with the crown, then the amount paid by the cultivator would be land rent not land tax. Based on certain instances from law Books like that of Manu, accounts of foreign travellers and land grants, scholars like vincent smith held the view that "The native law of India has always recognised agricultural land as being crown property."¹ Such a view-point was vehemently criticised by the nationalist historians.

K.P. Jayaswal opposing such a prejudiced notion says: "The writers unconsciously have read their own feudal law into Hindu Jurisprudence. Nothing is so distant from Hindu law as this theory. Numerous instances of gifts and sales of land by private individuals can be given from the earliest literature. Law books give provisions for sale of land and acquirement of property right (Svamy) by prescription. Inscriptions proving to the hilt private property in the soil are extant. Above all it is expressly and emphatically declared that the king has no property in the soil and this is declared in no less an authority than the very logic of Hindu law, the Mimansa."²

1 . Quoted in K.P. Jayaswal's 'Hindu Polity' p. 336.

2 . Jayaswal, K.P. -op.cit. p. 330.

A.S. Altekar too supports the views of Jayaswal. He observes; "In the Post-Buddhist period at any rate the ownership in cultivable lands was vested in private individuals; the state could not interfere with it except for the non-payment of the land tax. What is claimed from the average cultivator was thus not a land rent but a land tax."¹ He argued that some State grants recorded the gifts of entire villages to Brhamanas or temples, but this does not support the theory of state ownership of the arable land. For what the grants assign in most of these cases is the State's right to receive the various taxes, including the land tax, they never effect any change in the private ownership of the landed property included in the village.² Sometime king gives the ones, certain pieces of land with full ownership right as state in ancient times acquired ownership right over such disconnected pieces of land either through failure of heirs or through the non-payment of the land tax.³

Besides the land tax, trade and industry formed important source of Revenue. Being the indirect taxes, they were the keynote of the taxation policy. "Hindu politicians disliked direct taxation. They had practically no direct tax in their system except

1 . Altekar, A.S. – op.cit. p. 277.

2 . Ibid, p. 276.

3 . Ibid, p. 276.

the produce tax. Import duties which were exclusively 'indirect' in their incidence were the next great tax after the product tax."¹

Vishti or forced unpaid labour, which is often criticised as oppressive, is taken by many writers to represent a form of tax. "Poor people could afford to pay a tax neither in cash nor in Kind, but it was felt that they also should pay something to the state in return for the protection they got from it. This they could do most conveniently by offering free service to the state."² Moreover, it was not the State, but the local bodies (barring few cases) which had the right to exact this labour in order to carry out their public works programmes.³

It has variously been pointed out that the principles of taxation, as laid down in Smritis and other sources are 'ideals', which were not followed in real life. Not only this there are also clear references in literature and inscriptions to show that taxation were often oppressive. Scholars like Altekar do not subscribe to such views. Instances of oppression were rare and the Kashmiri tyrants often referred to, were exceptions. Evidence is available to show that people could successfully oppose the levy of unjust taxes and imposts imposed by the State.⁴ Village

1. Jayaswal, K.P. – op. Cit. P. 329.

2. Altekar, A.S. – op. Cit. P. 281.

3. Ibid, p. 281.

4. Ibid, p. 284.

assemblies and their executives were usually strong enough to resist encroachments on their legitimate rights and interests.”¹

The non Tax revenue of the State was a very important source of State's income. The important ones among these were the income from state properties, the profits of the State industries and other similar undertakings, proceeds of fines and the tributes from feudatories.² State property consisted of crown lands, waste lands, forests, mines, treasure troves natural tanks and reservoirs and it yielded considerable income.³ In most villages states possessed their own detached pieces of arable lands which were supervised by a special officers called sitadhyaksa in Arthasastra.⁴ The administration of waste lands was often left to the local bodies.⁵

Like the revenue, Expenditure too formed an important part of State's economic policies. Public welfare was – in theory at least – the guiding principle in the Expenditure of the public revenue.⁶ Sukra is the only writer from whom we can get an idea of the percentage of the state income devoted to the different items. 'Fighting forces' and 'Reserve Fund', which got respectively 50%

1 . Ibid, p. 284.

2 . Ibid, p. 285.

3 . Ibid, p. 285.

4 . Ibid, p. 285.

5 . Ibid, p. 285.

6 . Banerjee, P.N. – op.cit. p. 181.

and 16^{2/3}% of the state budget, were the main heads of Expenditure. Military Expenditure though high was necessary, if a state wanted to live and maintain its independence.¹ Contrasting this, with huge military expenditure incurred upon by the British government, which often employed Indian forces in foreign expeditions, Altekar points out that "every pie of this huge expenditure was spent within the country and that the heavy military budget went a long way not only in fostering martial spirit but also in indirectly encouraging trade and industry."²

The large share of Budget which went to reserve fund or treasury in Ancient India is something remarkable. It was emphasised by the Smriti and political writers that a full treasury was a must for the safety and stability of any state. Public or state loans were unknown, and the state could tide over a crisis only if it had a rich treasury and full and over flowing granaries.³ In order to provide against contingencies, wise financiers of old always considered it prudent to budget for a surplus after meeting all expenditure.⁴

For a proper control and administration of the finances accounts were kept which were audited as well. Drawing a parallel

1 . Altekar, A.S. – op.cit. – p. 290.

2 . Ibid, p. 290.

3 . Ibid, p. 290.

4 . Banerjee, P.N. – op. Cit. P. 182.

between the modern checks on the finance and the ones adopted in ancient times, Banerjee observes. "The annual accounts of every department were regularly submitted to the Accounts Department, and after they had been examined by the Superintendent they were audited by competent auditors. They were then submitted to the ministers in charge of the different departments, and considered by them sitting together as a cabinet."¹

A close survey of the views and notions of nationalists historians, regarding the policies and principles of taxation in ancient India, would indicate that they had great admiration and respect for ancient ideas of financial administration. When they were eulogising the fact, that taxation in Ancient India was invariably associated with the welfare of masses, they were in fact passing a value judgement on the then British government. Britain was in a way exhorted to spend the revenue for the development of India. When they drew similarity between modern concepts of Public finance with those prevailing in Ancient India they tacitly called for reform in government's tax policy. If the Indians witnessed a sound and reasonable system of taxation in past, they had every right for the same in present as well. In their zeal to send message across the board, such historians, often forgot that superimposition of modern concepts on the body polity of Ancient

1. Ibid, p.p. 184-185.

period would be anachronistic. One is hard pressed to believe, as Banerjee, says, "the audit reports were submitted to the ministers in charge of the different departments who considered them by sitting together as a cabinet."¹

1. Ibid, p. 185.

IV

INTER-STATE RELATIONS

Inter-State Relations in Ancient India, was carried out, on the basis of certain widely accepted rules of conduct. The absence of natural boundaries between the states in North India and the Prevalence of the political idea of Chakravartin (universal dominion) allured different states to encroach upon the territories of it's neighbours. The result was almost incessant warfare or readiness for war.¹ This resulted in the instability and uncertainty of interstate relations, necessitating the formulation of certain principles which would help the concerned states while dealing with each other. Such principles had ethico-religious tinge and were universally accepted, Scholars like P.N. Bannerjee and S.V. Viswanatha hold the view that, Indians had a knowledge of international law according to which they carried their international conduct.

Western critics denied that Ancient Indians had any knowledge of international Law. How could a race, which did not know anything about nation, chart out the rules of international conduct? Was the standard view point of west. The fundamental ideas that are implied in the modern concept of a 'nation' are :

1 . Beni Prasad, The State in Ancient India – p. 4.

'population', 'feeling of unity', 'political organisation' and 'sovereignty', These were supposedly absent in ancient India. This was not accepted by Indian scholars in general. "From time immemorial there had been political units. Aryan and non Aryan in ancient India. In the Rig veda, the Aryas were split up into various tribes which were conscious of their unity in race, language, religion and civilization."¹ Traversing through 'Territorial-sovereignty' achieved in later vedic period, the sixteen great powers of India were Truly Nation-states. These may said to have had in them all the elements of a nation.²

Once the Nation States had come into existence, rules of conduct for the guidance of the various states in their relations to one another were formulated. These rules were derived from "Dharma", the basic tenets of which prevailed all over India. Even though, there was no single authority who 'formulated' and 'enforced' the idea of Dharma, the fear of Almighty resulted in total subservience of people to it. Thus, in India the general rules of international conduct were already in existence and the nations had only to act upto them unquestionably.³ Unlike the modern European law of Nations, which are based on the 'common

1. Viswanatha, S.V. International Law in Ancient India, p. 6.

2. Ibid, p. 8.

3. Ibid, p. 10.

consent¹ of the states, the rules of conduct embodied in Dharma, had to be implicitly obeyed by all Nations in India, for they were based on a superior ethical sense.² The Indian Law of Nations may thus be held to approach more to the conception of positive law than European International Law.³

The accepted divisions of Modern International Law are war, peace and neutrality. In India also it may be said that these divisions held good in general.⁴ Smriti writers and political thinkers in Ancient India, knew that war could not be altogether tabooed. A judicious Balance of power among different states was advocated and elaborate rules of warfare aimed at minimising the loss to person and property, were laid down. The well-known Mandala theory of the Smriti and Niti writers is based upon this principle.⁵

A Mandala consisted of twelve kings in which ambitious conqueror was situated at the centre. He was surrounded by a host of Kings friendly, hostile and neutral. The king at the centre was to develop such a relation with these states, so that he not only succeeds in self preservation, but also manages to enhance his power. If the king is attacked, the intervening states were likely

1. Ibid, p. 11.

2. Ibid, p. 11.

3. Ibid, p. 10.

4. Ibid, p. 26.

5. Altekar, A.S. – op.cit. p. 294.

to form coalitions to resist the invasion so that the balance of power is not tampered with. Different states thus carried their foreign relation on the principle of 'self preservation'. In this, Kautilya and other writers touch on the importance of constant alliances and counter alliances among the various powers.¹

A parallel has been drawn between the modern state of international affair and the one depicted by the Mandala theory. Division of the country into small states and the presence of an ambitious conqueror, anxious to establish his hegemony over them, was true of ancient Indian polity and they have not become antiquated even in the modern world.² The theory that the immediate neighbouring state are enemical seems to be natural. The enmity between France and Germany, between Poland and Russia, between China and Japan was largely due to their contiguity which often caused conflicts of interests.³

As the Ancient India was divided into a multitude of nations wars were not of infrequent occurrence.⁴ The usual causes of war were: 'the desire to attain the imperial status, necessity of self-preservation the acquisition of more territories or tributes, restoration of balance of power, the retaliation for raids and the

1. Viswanatha, S.V. – op.cit. p. 92.

2. Altekar, A.S. – op.cit. p. 294.

3. Ibid, p. 294.

4. Viswanath, S.V. – op.cit. p. 108.

rescue of oppressed populations'.¹ Under such circumstances, elaborate rules were laid down to guide the warring forces.

Viswanatha attempts to delineate the characteristic features of the 'concept of war' as was run by the ancient thinkers. It would appear that war was an affair between state and state and not between individuals.² Wars were declared not precipitately but after due deliberation of the past events, and only when the conduct of the belligerent states necessitated breaking off negotiations.³ Unlike the ordinary quarrel war was a condition which implies the employment of organised forces and implements of destruction.⁴ Lastly, war meant a series of acts of hostility, and not merely a condition.⁵

War being inevitable attempts were made to humanise it as much as possible. Similarly, it was intended to differentiate between 'combatants' and 'non-combatants'. The non combatants were ordinarily exempt from personal injury except so far as it might incidentally happen in the course of the warfare, or be inflicted as a punishment against the invader.⁶ Wholesale devastation and ruthless destruction was not resorted to. Tillers of

1. Altekari, A.S. – op.cit. p. 297.

2. Viswanath, S.V. – op.cit. p. 110.

3. Ibid, p. 110.

4. Ibid, p. 111.

5. Ibid, p. 111.

6. Ibid, p. 155.

the soil and those people who were engaged in special arts were to be exempted. As in modern international codes, works of religion and fine arts, and the persons that were employed in dressing the wounded and the sick or were engaged in scientific pursuits were not to be subjected to the risks of war, but special protection was given to them.¹

War ethics were clearly pronounced. Chivalry and Heroism were associated with the warring classes. Weapons which would cause mass destruction were condemned and acts like incendiary was avoided. Only such instruments were to be used as would barely bring about the disabling of the enemy.² There were definite rules about quarters to be given to the enemy.³ One who has surrendered or was wounded or fleeing away was not be slain. Prisoners of war if wounded were treated by the doctors, and allowed to return home at the end of war.

Booty appears to have been taken in war. Property in the territory invaded was not to be seized under ordinary circumstances, but provisions for the army could be taken by the king from the place in which he was encamped and crops in the field might be utilized by him or burnt down so that they might

1. Ibid, p. 157.

2. Ibid, p. 149.

3. Altekar, A.S. -op.cit. p. 299.

not be of service to the opponent. ¹ The defeated territory was not annexed in general, If however, annexation became inevitable, established laws and customs were respected and the life and property of the new subjects were protected. In other words local autonomy was preserved. "It was partly due to the uniformity of culture and religion that prevailed in the States, temporarily at war with each other. Normally in peace time their relations were not embittered by religious or cultural divergences or animosities, and so the war did not spur the combatants to bring about the utter destruction of each other. Internal autonomy was easily conceded."²

Critics point out that the concept of Kuta yudha, mentioned in Law Books, permitted attack at any time and under all circumstances, also involved wholesale destruction of property and person. This demonstrates the divergence between theory and practice. Taking the example of first world war, Viswanatha proves that there can only be a theory of international law and no real relation subsists between theory and practice.³ Moreover, the atrocities committed under Kuta-Yudha were not as heinous as were then prevalent in other parts of the world. No ancient Indian king is known to have boasted to having built a wall with human

1. Viswanatha, S.V. – op.cit..p. 158.

2. Altekar, A.S. – op.cit. p. 297.

3. Viswanatha, S.V. – op.cit. p. 12.

skulls or having flayed their skins, as Thutmoses III and Asurnazerpai are known to have done.¹

Though there are elaborate rules of conduct to guide the Indian States in war, their mutual rights and obligations in times of peace were not dealt upon adequately. Information about Diplomacy and 'Alliances' can however, be culled from different sources. Unlike in modern age, permanent resident embassy were not in vogue but communication between different courts were kept up through diplomatic agents who visited the foreign state regularly.¹

Given the fluid condition of Inter-state relation, alliances were regarded as a great necessity by most of the powers. The purposes of alliances appear to have been the desire for the acquisition of territory, or for maintaining the balance of power among different states.² Sometimes different states would join together for the colonisation of an uninhabited tracts of country, but the alliances were formed mostly for the purpose of war. More often kings combined to crush a powerful rival.³

Types of alliances were categorised, either on the basis of 'purpose' or 'the benefits accruing' to the respective parties.

1. Altekari, A.S. – op.cit. p. 299.

2. Viswanath, S.V. – op.cit. p. 96.

3. Banerjee, P.N. – Public Administration in Anc. India. P. 191.

Based on the purpose, "alliances were of two types – offensive and defensive the former mostly during war, the latter in times of peace as well."¹ The second type is in evidence in the alliances on equal and unequal terms – Samana and asamana or hina. Apparently in the first, both parties that entered into the alliance had equal advantage, while in the latter, the less powerful states of the coalition were bound to the larger states in various ways.²

Alliances were made by means of treatises.³ The observance of a treaty either depended upon the plighted word (satya, sapatha) or was enforced by means of sureties (pratibhu) and hostages (Pratigraha).⁴ Sureties and hostages were demanded when there was an apprehension of a breach of faith. Great importance was laid on the principle of 'honour of word' as a guarantee for the maintenance of alliances. In spite of this theory, the maintenance of a treaty was often found very difficult.⁵

The system of accrediting ambassadors permanently from one court to another is too modern a concept to have existed in those ages.⁶ But Diplomacy in the sense of, regular exchange of foreign envoys between states has been a very important part of

1. Viswanatha, S.V. - op.cit. p. 102.

2. Ibid, p. 102.

3. Banerjee, P.N. - p. 192.

4. Ibid, p. 192.

5. Ibid, p. 192.

6. Viswanatha, S.V. - op.cit. p. 64.

international conduct in ancient India. Primary objective of Diplomacy was maintenance of 'Balance of power' among different states. Like in modern times there were various kinds of Diplomatic agents, and their powers and responsibilities differed a great deal. Banerjee,¹ translates Nisristartha, Duta Parimitartha and Sasanahara as Plenipotentiaries, Ambassadors, charges-d' affaires and conveyors of royal messages, respectively. We find, however, that in general language the term (Dutah) was used to cover all these forms.²

The ambassadors kept their governments fully informed of the activities of the court to which they were attached.³ In ancient as in modern times, the ambassador was a licensed and open spy;⁴ during his stay at the foreign court, he was to cultivate friendly relations with the officials with a view to get a clue to the real policy of the government. He was to gauge the general situation, estimate the state's resources in men and money and get a first hand information about the the condition of the defences and forts of the country.⁵

The sacredness and inviolability of the person of ambassadors was respected. As the representative of a foreign

-
1. Banerjee, P.N. – op.cit. p.
 2. Viswanatha, S.V. – op.cit. p. 70.
 3. Banerjee, P.N.- Op.cit. p. 193.
 4. Altekar, A.S.- op.cit. p. 301.
 5. Ibid, p. 301.

power, an envoy enjoyed great Privileges and immunities.¹ The ambassadors on their part were expected to behave with dignity and courtesy, and to preserve the good name of the state which he represented.²

Besides the Diplomats, there were 'Spies' and other 'News agents' who formed in themselves a sort of international agents.³ In matters of foreign policy they were to collect secretly information about the enemy country.⁴ Being secret agents they did not enjoy any privileges and immunities of ambassadors. Reacting to Smith's remarks that use of espionage for international dealings implied 'inveterate and universal suspicion,' Viswanatha points out that 'Such has been the case in all ages among all nations as regards dealings in international politics.'⁵

Wheaton says that "in most civilized nations of antiquity, the right of a state to remain at peace, while her neighbours were engaged in war, was not admitted to exist, as he, who was not an ally was an enemy because no intermediate relation was known, so no word had been invented to express such relation." It may be held that the above remark is to a large extent applicable to India as well. But it is not true that as in 'Greece' or 'Rome', no

1. Banerjee, P.N. – op.cit. p. 194.

2. Ibid, p. 195.

3. Viswanatha, S.V. – op.cit. p. 72.

4. Ibid, p. 73.

5. Ibid, p. 77.

intermediate relation was known' in ancient India. Of the various attitudes of a king 'Asana' denotes the state of being a neutral and the terms 'Madhyama' and 'udasin' correspond to a neutral king.¹

In addition to sovereign and independent states, part sovereign and feudatory or semi independent states existed in large numbers in ancient India. These kinds of states were also subject to the International Law in ancient India.² Though such states had to part with their external sovereignty, they enjoyed sufficient Internal autonomy. A representative of the imperial power (similar to those of residents under the British rule) stayed at the court of feudatory rulers to watch its interests.³ They received the privileges of the representatives of the imperial power. The feudatories on the other hand, used to appoint a representative of their own at the imperial court.

The policy to permit defeated kings to rule as feudatories introduced a permanent element of instability in the body politic. Feudatories always cherished the hope of regaining independence. Very often the feudatory and the imperial power were in a state of armed neutrality; the imperial power could maintain its position as long as it managed to keep a balance of power among its feudatories and its own effective hold over all of them.⁴

1. Ibid, p. 186.

2. Ibid, p.p. 25-26.

3. Altekar, A.S. – op.cit. p. 304.

4. Ibid. p. 308.

CHAPTER – IV

PROJECTION OF DEMONRATIC ELEMENTS.

Existence of democratic elements, is perceived by the nationalist historians, to be the most dominant theme of ancient Indian polity. Nationalist scholars in general pronounce that government at the top, be it under monarchy or republic, was limited and constitutional, and the government at local level, which was conducted through and village assemblies and town councils, were the symbols of direct democracy. King existed for the welfare of the people; he was directed as much by the rule of law as any ordinary man; he enjoyed his privileges and power till the subject had faith upon him and divinity if ever bestowed to the king it was functional and could never result in the theory divine right; are some of the important characterisations about ancient Indian kingship. Republics were, however governed by central executive whose president was elected and controlled by the assembly. Devolution of power to the local level has been marked by scholars like Aiyangar, Dikshitar, Mookerjee, Majumdar as, the most potent check which militated against any possibility of despotism at the top. Reflecting upon the part of India, K.P. Jayaswal. Observes, 'the constitutional progress made by the Hindu has probably not been equalled, much less surpassed by any polity of antiquity.'

1. Kayasural K.P. Hindu Polity – P. 352

By the end of the nineteenth century, there emerged a school of thought among the Europeans who believed that, it was not just despotism and intense religiosity, which ancient Indian can boast of, but something positive as well, Hopkins did not subscribe to that dictum of Max Muller where he says, 'to the Greeks existence is full of life and reality but for Hindus it was a delusion.'¹ Similarly Rhys Davis could trace the existence of republics during the age of Buddhas which functioned through public assemblies.² But the writing of K.P. Jayaswal perhaps for the first time, created an altogether a new perspective in the historiography of ancient Indian polity. He was the pioneer Nationalist who asserted in no uncertain terms that presence of democracy in ancient India, if not more pronounced, was no less than any other contemporary society. Kingship in early India, for Jayaswal, was constitutional, limited and welfare oriented whereas republics were no less developed than in Athens. The oath taken by a king at the time his consecration, the existence of Paura-Janapada, occurrence of Debate and voting in the Ganas and the rule of law, etc. were in the view of Jayaswal, the very essence of polity in early India.

Jayaswal opposing the divine origin of kingship, emphatically proposed that the king derived his power and authority as a result of contract between the ruler and the ruled, he writes, 'they (the

1. Hopkins, E.W. - The Military position of the ruling caste p. 126

2. Davids Rhys - The Buddhist India - p.p. 1-12

political writers of ancient India) held that the first king was elected on certain conditions or on a contract, and that original contract was always enforced subsequently.¹ Jayaswal further comments, this theory of contractual monarchy, which undoubtedly was a reflex of the express republican theory of contract, found support in vedic hymns and songs of royal election, in rituals of royal consecration which were based on elective principles and in the coronation oath which made the king swear that he should rule according to law.²

If the relation between the ruler and the ruled was established on the principles of contract, the theory of elective kingship would be a natural corollary; Jayaswal asserted that, 'the vedic king was elected by the people assembled in the samiti.'³ The king once elected was bound by certain obligations and could be removed from office if he did not fulfil his commitments. The rationale and the purport of election is explained by Jayaswal, when he observes, 'The election in the vedic age appears fairly simple and business like. But it has a latent philosophy behind it. The king is elected by the people; he is expected to fulfil certain duties; and is invested with certain privileges. He accepts his office from the people and the kingmakers. He was in agreement with his electors. He could be removed from his office and could be brought

1 . Jayaswal, K.P. op cit. P. 185

2 . Ibid.

3 . Ibid. p. 186

back from exile'. The germs of the political philosophy of kingship are all to be found in these vedic mantras'.¹

In the later vedic period, when society grew and became complicated, and, 'it was not possible for the whole folk to assemble, the adoption of the representative principle was natural,'² under such circumstances the elaborate rituals and coronation oath accompanying the royal consecration provided legitimacy to the office of kingship and acted as a check against the royal absolutism. Under lining the importance of such rituals and oath, Jayaswal opines, If Hindu monarch failed to keep his coronation, oath, he would be false in his vow, and he would forfeit his title to remain on the throne.³ Unlike many other modern historians, who think that these consecrating rituals and coronation oath were aimed at enhancing the power and prestige of the king in the eyes of people and thus secure greater obedience, Jayaswal interprets them to have retained the constitutional and democratic tradition as we find in the true vedic period. The coronation oath, according to Jayaswal expressed, ' Hindu kingship was a human institution, it was elected and the electorate being the whole people; kingship was a contractual engagement. Kingship was an office of state, which had to work in co-operation with other offices of state:

1. Ibid. p. 191

2. Ibid. p. 197

3. Ibid. p. 220

kingship was a trust, the trust being the tending of the country to prosperity and growth; kingship was not above law but under it; kingship was primarily nation a and secondarily territorial."¹

Existence of popular assemblies like sabhā, samiti vidāthā, Gaṇa, in ancient India (especially during the vedic period) is regarded by the nationalist historians, a proof for the prevalence of democracy. Jayaswal says the samiti was the National assembly and the real sovereign.² It appointed the king and inhibited any attempt on the part of the ruler to arrogate too much power. the Post-vedic period saw the emergence of, what Jayaswal calls, 'non-national, territorial monarchies'.³ In the changed circumstances. Vedic assemblies lost heir relevance. This, thinks Jayaswal, was natural, as the basis of the samiti was the national unit, and the national unit now ceased to be factor in matters constitutional.⁴ But the popular element did not cease to exist in the age of new monarchies. The old samiti, feels Jayaswal was replaced by two popular institutions, namely Paura and Janapad. On the basis of references found in Rāmāyaṇa, Manu and Yājñavalkya smritis, and hāthingupha inscription, Jayswal takes Pura to be corporate assembly of the capital whereas Janapada represented the whole country except the capital.⁵ Unlike the majority view which

1. Ibid. pp. 211-212.

2. Ibid. p. 191

3. Ibid. O. 229

4. Ibid. p. 230

5. Ibid. pp. 230-236

translates Jānapada as the inhabitant of Janapada, Jayaswal opines that it was a technical term with great constitutional significance.¹ The paura was a communal association in which was vested the municipal administration of the capital; apart from its municipal work it exercised great constitutional powers.² Jayaswal also remarks 'that Paura and Janapada, consisted of two sections, the inner and the outer bodies. The inner must have been the executive council which sat permanently.'³ He also suggests that Paura had a real popular base representing even the lowest interest.

Jayaswal describes the constitutional power of these two institutions in great detail. He remarks matters of importance were discussed and decided in a joint parliament of the two bodies, the Janpada and the paura.⁴ These bodies along with Brahmins and other leaders of the nation proposed the name of yuvaraj.⁵ Likewise the paura-janapada could interfere with succession and prevent an undesirable prince from coming to the throne.⁶ Some other important functions of Paura-janapada, were concerned with the administration of the state. Jayaswal gives a list of such function and power in following words, 'the Paura-Janapada...were approached and begged by the king in all humility for a new tax,

1. Ibid. pp. 230-321

2. Ibid. p. 237

3. Ibid. p. 238

4. Ibid. p. 245

5. Ibid. p. p. 245-246

6. Ibid. p. 248

whose confidence in a minister was regarded an essential qualification for his appointment as chancellor, who were consulted and referred to with profound respect by a king aspiring to introduce a new religion, who demanded and got industrial, commercial and financial privileges for the country,.... Who could enact statutes, even hostile to the king, in fine, who could make possible or impossible the administration of the king-an organism with these constitutional attributes was an institution which we will be justified in calling the Hindu diet.¹

Another important feature of ancient Indian Polity, which, according to Jayaswal, reflects the presence of democracy, was the system of law and administration of justice. There always existed an all-powerful law and even in the palmist days of Hindu monarchy, observes Jayaswal, neither in the Mānava-Dharma-Śāstra nor in the Artha-Śāstra, was the king placed above the law.² He further writes, the administration of justice under Hindu monarchy remained always separate from the executive, and generally independent in form and ever independent in Spirit.³ Some other important characteristics of judiciary in view of Jayaswal were; Sabhā which earlier was a folk assembly had become the law court;⁴ there was the jury system and their number was odd, to provide for voting;⁵ King heard the cases not by

1. Ibid. pp. 268-269

2. Ibid. p. 310

3. Ibid. p.

4. Ibid. p. 311

5. Ibid.

himself, but sitting in his council which included the chief justice;¹ king along with his council acted as an appellate court;² Justice was administered openly not in private.³

Law, which was considered to be traditional and hence unalterable, was not static and inflexible. Jayaswal says, 'The law was, however, occasionally altered by direct legislation and more generally by interpretation, and also by new treatises fathered on ancient names. e.g. Narada Smriti.'⁴ The motive behind such alterations, it seems were common welfare and popular acceptance. In this regard, Jayaswal makes following observation, "The ministers rejected such laws as having regard to the circumstances of the community and public weal were deemed undesirable to be put into operation. They also took into consideration the popular view with regard to the current laws."⁵ This method of legal pruning and regrad for the popular opinion resulted in the modification of laws and in effect acted as new legislation.

Republic, feels Jayaswal, were the very epitome of democracy. Gaṇa-Rājya, according to him was a government by parliament.⁶ Some of the important features of these republics, which are interpreted by Jayaswal as truly representing the system

1. Ibid. p. 313

2. Ibid. p.

3. Ibid. p. 314

4. Ibid. p. 317

5. Ibid. p

6. Ibid. p. 23

of democracy, were lack of hereditary principle for the kingship, relaxation in the caste system and consequent denial of privileges to Brāhmanas, assembly followed the modern democratic procedure like voting, decision by majority, debate etc. and the presence of equalitarianism, cooperation, and patriotism.¹ Terms like Bhaujya, vairājya, svarājya, which are perceived by modern scholars in general, as different grades of monarchy, are interpreted by Jayaswal as various technical classes of constitutions.² Arājaka which is popularly perceived to represent a condition of anarchy and lawlessness was according to Jayaswal, an example of perfect democracy. Elaborating upon the nature of such a constitution he observes, 'The A Rājaka or 'non-ruler' was an idealistic constitution... The ideal of this constitution was that law was to be taken as the ruler and there should be no man-ruler, The basis of the state was considered to be mutual agreement or social contract between the citizens. This was an extreme democracy almost tolstian in ideal.'³

R. Shamasastri, also traces in early India, the elements of elective kingship, existence of assemblies and checks on the power of King. Shamasastri believes that when the Aryan had settled in the country they felt the need for a permanent ruler, leading ultimately to the rise of hereditary monarchy. However, it is

1. Ibid. pp. 86-94

2. Ibid. p. 75

3. Ibid. pp. 82-83.

asserted by him that monarchical element seems to have been under the powers of the 'peoples assembly' composed of priests, nobles (Rajas), traders and agriculturists (vis).¹ Sabhā, samiti, Janatā, Parisada according to Shamasastri were some of the important assemblies prevalent in vedic and sutra periods.² He also speculates upon the constitution and powers of such assemblies. With regard to the membership of assemblies, Shamasastri says, 'there seems to have been no restriction whatever. Whether old or young, educated or uneducated, all seem to have had free admittance into the assembly whenever it was convened. It is also probable that there was no question of quorum, but the presence of every villages was necessary to make the assembly fully authoritative.'³ To the question whether every member had right to speak and express his opinion or was it confined to a few members only, Shamasastri responds through his following remarks, 'Though the right of discussion and decision is as a matter of fact granted by a common consent to the educated and the aged, no man whether ignorant or young, is denied the right of expressing his view, merely on account of his ignorance or youth.'⁴ Regarding the powers of these assemblies, Shamasastri says, they (assemblies) resolved the question of election, banishment and restoration of kings.⁵

1. Sharmasastri, R. Evolution of Indian Polity – P. IX

2. Ibid. p. 73

3. Ibid. p. 74

4. Ibid. pp. 74-75

5. Ibid. p. 75

P.N. Banerjee, in his study of ancient Indian polity, finds the existence of both monarchical and republican form of governments. In the republic, the affairs of the state were discussed and decided in the tribal assemblies, and the executive power was in the hands of the leaders (Mukhyas).¹ But Banerjee feels, even under the monarchies, the democratic elements in the form of limited power of kings and existence of constitutions could be traced. Describing a government under monarchy, he observes. 'The system of government, may be described as a 'limited monarchy'. There were various checks on the authority of the monarch. The king had to abide by the law as laid down in the sastras or embodied in the customs of the country. In the practical work of administration he was guided by his ministers...., Then, there was the influence of the learned Brahmanas as a class, who were looked upon by the people as the natural guardians of society.'² Banerjee uses another term to describe the form of government namely 'constitutional monarchy' or 'Sachivatantra'. He thinks that, sastras were regarded by the kings in early India as embodying a sort of political constitution as well as an ethical law.³

Kingship according to Banerjee was in vedic period elective but gradually it became hereditary. 'He however adds, that even after the hereditary principle had become fully established, the

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1. Banerjee, P.N. Public administration in ancient India -p. 43
 2. Ibid. p. 50
 3. Ibid. p. 51

formal offer by the people of sovereignty to the king was for a long time held essential.¹ Banerjee also writes, that in the latter part of the Hindu period of history, the power of the monarch was much greater than in the earlier. But at no time was the royal power in theory, at least, quite absolute. In practice, it is true, some kings acted in an autocratic manner, but this must be regarded as a usurpation and abuse rather than a normal exercise of authority.²

The existence of sabha and samiti and their popular character is discussed by Banerjee in great detail. He observes, 'The samiti appears to have been a general assembly of the people convened on an important occasion, such as the election of a king. The less formal, and more commonly convened, assembly was the Sabha. The assembly deliberated upon state business of all kinds, executive, judicial and military.'³ Banerjee further suggests that the decisions of the majority prevailed and the president of the assembly was appointed in view of his age, attainments and character.⁴ The growth of the King's authority led to the substitution of the privy-council (Mantri-parisad) of the king for the ancient meetings of the folk. Banerjee, however argues that the mantri-parisad was not a hand-maid of the king but had great administrative and constitutional import. He writes, 'The king was supposed, not to do anything without the consent of the council. All

1. Ibid. p. 67

2. Ibid. p. 76

3. Ibid. p. 95

4. Ibid. p. 95-96

ordinances were perhaps sanctioned by the council. It possessed immense powers, and enjoyed a great deal of independence. In exceptional cases, it had even the power to elect the king'.¹

Banerjee also underlines the presence of an efficient judiciary in ancient India, which fully, recognised the importance of decentralisation. Besides the king's court and the principal courts held in the important centres, Banerjee opines that, 'each village had its local court, which was composed of the headman and the elders of the village. Such courts decided minor criminal cases as well as civil suits of a trifling nature. Their powers, it seems, were limited to the transfer of the possession of property and the inflicting of small fines. Decisions in these courts were given in accordance with the opinion of the majority of honest persons composing the courts.'² In addition to such regular courts, Banerjee writes that there were arbitrators. All cases, except those concerning violent crimes could be decided by arbitration by guilds of artisans assemblies of co-habitants, meetings of religious sects, and by other bodies duly authorised by the king. Appreciating such a system of decentralised judiciary, Banerjee remarks, 'This system had the great merit of giving substantial justice to the disputants and at the same time, preventing ruinous litigation.'³

1. Ibid. p. 103

2. Ibid. pp. 146-147

3. Ibid. p. 148

Dikshitar in his analysis of ancient Indian polity, follows the general trend of the nationalist historiography, in the sense that for him, monarchy was limited and democratic, popular assemblies existed as indispensable part of the administration, and judiciary was decentralised and followed the rule of all powerful law. Dikshitar Explains the character of ancient Indian monarchy as both hereditary and election^{ve}. Elaborating upon the nature of monarchy, he further writes, 'It was elective in the sense that people acquiesced on the choice...we can call it a democratic monarchy because it was the vis, and then the Samiti, and then Rājakartas that decided the validity or otherwise of the succession to monarchy. Even after election these exercised much influence over the conduct of the King. Each of them was a representative body of the whole people in the real sense of the term. It was democratic in the sense that people had real control over the conduct of the king and even exercised right of exclusions.'¹ Countering the impression of scholar like V. A. Smith SM Edwards who underline the despotic character of ancient Indian monarchy, Dikshitar ^orgues, 'our legal and Arthasastra literature furnish various checks and balances imposed upon the central government of the country. In spite of them if a king would have recourse to high - handed measures, open revolts, deposition and choice of another king were weapons ready to hand to fight a refractory

1. Ibid.

monarch with.¹ ^{however,} Dikshitar ¹ does not subscribe to the views of Bhandarkar, ~~as well~~, when the later, though accepts the existence of popular monarchy in the pre-mauryan period points to the absolutism of the Mauryas including Ashok. Even the Paternal duties of king are interpreted to reflect the royal absolutism. Opposing such a view point, Dikshitar observes, 'They (Passages ^{referring} ~~rejecting~~ to the paternalism) undoubtedly refer to the great interest which the Maurayan Monarchs displayed in governing their kingdom To compare the conduct of parents towards children as in any manner tyrannical or despotic is to disregard all the joy and peace of the family life which one ordinarily expects in the course of a normal life.'²

Dikshitar admits that assemblies like Sabhā and samiti had great political and administrative importance. They also reflected the popular elements as well. Dikshitar ^{opines} ~~opines~~ that Sabha was the council of elders which was more of a legislative and judicial character.³ He however underlines that the elders were men of such high character and learning that they evoked respect from all communities.⁴ But regarding the character of samiti, Dikshitar asserted its communal and democratic aspect in no uncertain terms. He observes, 'It (Samiti) must have been a people's assembly, generally presided over by the king; and it is just

1. Ibid. p. 72-73

2. Ibid. p. 74

3. Ibid. p. 153-154

4. Ibid. p. 153

possible that one of its functions was the formal election of the king by giving their unanimous assent to the choice perhaps made by the members of the sabha.¹ The terms paura-Janapada are interpreted differently by different historians. Jayaswal takes these terms to be technical ones signifying corporate associations of capital and folks, but N.N. Law opposes such a notion and takes these terms to mean people of the town and the country. Dikshitar however supports the views put forward by Jayaswal. He opines, 'it is far more reasonable to take them to be corporate associations which were highly respected as popular bodies both by the kings and his ministers. They were often consulted so that there might not be any room for dissatisfaction among the public at large.'² Thus we can see that Dikshitar conceives the paura and Janapada to be corporate assemblies reflecting the popular elements.

Like his predecessors, Dikshitar also talks of a highly developed system of law and justice. Similar to Jayaswal Dikshitar supports the omnipotence of Law which governed the ruler and the ruled alike. He observes, 'law then gained supreme authority in the land and the ancient Hindu monarch felt obliged to accept it without any reservation. He was not above the law but under it.'³ Describing the organisation of judiciary, Dikshitar talks of hierarchy of courts, separation of civil and criminal courts, jury

¹ . Ibid. p. 155

² . Ibid. p. 157

³ . Ibid. p. 216

system, open trial, independence of judges and so on.¹ Earlier jayaswal and Banerjee had supported the existence of jury system. Dikshitar not only reiterates their existence but also enumerates its composition. He says, 'it is reasonable to conjecture from this (from Nārada, Sukraⁿsmṛiti and other Smritis), that influential and qualified persons often formed the jury of the court, and these were chosen then and there. From this it would appear that the jury was not a permanent institution while the judges held permanent offices.'² Dikshitar further comments. 'Vākayanuyoga' is the jury-pronouncing on guilt or innocence, and the karmanuyoga is the judgement of the chief justice.³

Dikshitar also underlines the fact that besides the king's supreme court of justice, there were various courts established on the outskirts of the state, in the capital towns of the several administrative districts. In addition to these courts, there were many local courts of the village where the elders of the village community decided the case.⁴ Dikshitar, however, also puts forward the view that appeal against the decision of a lower courts could be made to the higher court.⁴ There was also the provisions of retrial if the party felt that ~~there~~ justice was denied to it.⁵

1. Ibid. pp. 220-260

2. Ibid. p. 246

3. Ibid. pp. 246-247

4. Ibid.. p. 254

5. Ibid. p.

R.C. Majumdar eulogises the 'villages assemblies' and the, various republican states for their ultra-democratic character. The monarchy too possessed many popular elements like assemblies but it was the functioning of Republics which saw the realisation of perfect democracy. Talking about the Republics of lichchavis and Sakyas, Majumdar observes that they possessed, ^ed^amocratic constitutions. There was general assembly, containing both the young and the old, as the supreme authority in the state, with powers to enact, new laws and abrogate old ones.¹ Commenting upon the method in which justice was administered among the lichchavis, Majumdar writes, 'The system is chiefly remarkable, for the ultra-democratic spirit which characterises it.'² There was a series of tribunals and every man had the right to appeal to the higher court. He further remarks, 'the right of the individual was thus safeguarded in a manner that has had probably few parallels in the world. He could be punished only if seven successive tribunals had unanimously found him guilty, and he was quite safe if but one of them found him innocent. And it is but fitting that the right of the people should thus be safeguarded in state where the people governed themselves.'³

Majumdar firmly believes that the system of electing the king was known to the vedic period.⁴ Most of the scholars agree to such a proposition but there were some like Geldner who opposed it and

1 . Majumdar, R.C. Corporate life in ancient India-p. 218

2 . Ibid. p. 224

3 . Ibid. p. 225

4 . Ibid. p. 92

argued that kings were accepted by subjects, not chosen by them. Countering such views he argues, 'Passages (of Atharvaveda about the rite for victory in battle, and the consecration ceremony), if refer to the acceptance, and not selection, of the king by the people, can hardly explain the contests for pre-eminence and the keen sensitiveness about the success over rivals that is breathed throughout in the above passage.'¹ Drawing a parallel between the vedic system with that of Rome, Majumdar observes, 'it must also be remembered that the acceptance of a king by a people has generally been, as in the case of Rome, the residuum of the power once enjoyed by the people of electing their ruler, and that it is difficult to explain the origin of the custom in any other way. Even Geldner's view therefore naturally presupposes the system of election in ancient India.'² According to Majumdar, reference to election of king are found not only in vedic period, but also in post vedic literature like the Buddhist canons and epics.³

Corporate activities in political field was carried, Feels Majumdar, through assembly. Commenting upon the nature of assembly he observes, 'there is abundant evidence in the vedic Literature that it was a powerful body- exercising effective control over the royal power.'⁴ Majumdar takes sabha to mean the local and

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1. Ibid. p. 98
 2. Ibid. p.
 3. Ibid. p. 101
 4. Ibid. p. 110

samiti, the central Assembly.¹ Assembly (Samiti) was originally the assembly of the people at large (vis) and they retained their influence over it, however nominally, down to the late vedic period.⁷ The Democratic spirit of the assembly, perceives Majumdar, is reflected through the fact that members assembled resorted to debate and reasoning to establish one's superiority over the other. Like in modern day parliament, party spirit ran high. Elaborating upon the popular aspect of such assemblies, Majumdar writes. 'Though the people were keenly alive to the necessity of gaining over the Assembly, the only, means by which they ever sought to directly achieve this and was indeed the most honourable one, viz the persuasion of its members by supremacy in debate..... thus, to the credit of the political leaders must it be said that amid the contests and conflicts of the corporate political life, they never violated the cardinal doctrine of the supremacy and independence of the Assembly at large, and to the honour of the people who graced that Assembly be it ever remembered that such was their honesty and sense of responsibility, that friends and foes alike recognised, that the only force before which they would yield was the force of reason and argument.'²

Majumdar opines that the great political assemblies of vedic period did not die, but it (Samiti) gave way to the mantriparisad (Privy

1. Ibid. p. 110

2. Ibid. p. 117

council) referred to in Kautilya's Arthashastra.¹ This parisad assisted the king in carrying the administration and the fact that king was enjoined upon to do what the majority of the members suggested, reflects its importance. Majumdar compares the development of the executive machinery in India with that of England. He observes 'As the great national council of the English gave rise to the permanent council which subsequently dwindled into the privy council out of which the king, elected his confidential ministers and formed the cabinet, so the samiti of the vedic period gave place to the mantriparisad out of which the king selected a few to form a close cabinet.'² Majumdar however points that samiti, did not, like the great national council, bequeath any such legislative assembly as the parliament to the nation; this function devolved upon the parishad.³

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1. Ibid. pp. 117-118
 2. Ibid. p. 120
 3. Ibid..

REPUBLICS

There were many states in Ancient India in which the form of government was non-monarchical. Such states have been described by modern scholars to be either 'oligarchies' or 'aristocracies' or 'Republics' or mere 'tribal organisations'. 'Gana' and 'Sangha' often used synonymously in ancient literatures, denote these non-monarchical governments. But 'Gana' has been interpreted differently by different scholars. Thus Bhandarkar takes 'Gana' to denote 'tribal oligarchy',¹ Beni Prasad thinks, it means 'the rule of clans',² whereas Jayaswal and Altekar equate it with 'Republics'.³

Not only the 'Nature' of non monarchical States have been interpreted differently, but even the form of government, they witnessed, were not the same, according to the modern historians. Ganas, say Beni Prasad, founded on the idea of Clan were oligarchies. He observes. "All the inhabitants of any one of these states could hardly have belonged to a single clan and could not have come together for deliberation. Of representation, there is no trace or hint anywhere. Hence this type of polity is to be designated as oligarchy rather than republic."⁴

1. Bhandarkar, D.R. op. Cit. P. 104.

2. Beni Prasad op.cit. p. 156.

3. Jayaswal, K.P. -op.cit. p. 23, Altekar, A.S.op.cit. p. 113.

4. Beni Prasad op.cit. p. 156.

Unlike Beni Prasad, most of the Writers are of the view that non-monarchical states were Republics. "Gana thus was, the assembly or parliament, so called because of the 'number' or 'numbering' of the members present. Gana-rajya consequently, denoted government by assembly or parliament. The secondary meaning of gana came to be 'parliament' or 'Senate', and as republics were governed by them, gana came to mean a republic itself."¹ Equating oligarchies, aristocracies and democracies, Altekar observes, "We can certainly describe ancient Indian gana states as republics in the same sense in which the ancient states of Greece and Italy were given that designation. Sovereignty in these states was vested not in one individual, nor in a small number of persons, but in a fairly numerous class."² Thus, even though there were not democracies or republics in the modern sense as supreme power did not lie vested in the whole body of adult citizens – we can still describe these states as republics because the governing class was a fairly large one.³

The Republic states, depending upon the number of families forming the ruling elite, can be divided into two types, one where the Executive power was held by a few families on hereditary principle and thus be termed as aristocracy or 'aristocratic

1. Jayaswal, K.P. op. Cit. P. 23.

2. Altekar A.S.-op.cit. p. 113.

3. Ibid, p. 115.

democracy'¹ as Jayaswal calls it and second which had no hereditary principle and tended towards democracy. Gana and Kula were the two main divisions of the sangha states² says Jayaswal. Kula sanghas where a few families formed the governing class, were aristocracy in form and democracy in spirit and Gana pure and simple, had no hereditary principle and technically was of the nature of democracy.³ Bhandarkar, also distinguishes between Kula samghas⁴ which denotes the rule of a clan and Gana or Puga sangha, a tribal oligarchy, a federation of clans.⁵ Besides these Bhandarkar also talks of two fold kind of democracy, one styled Nigama which was confined to a town and was a citizens' democracy and the other Janapada which extended over a province and was tribal in character.⁶ Moreover, terms vairajya (Kingless) Svarajya (self-rule) and Bhaujya (temporary rulership) have been interpreted by Jayaswal as technical constitutions associated with Gana and Kula.⁷ That is they denote republican states.

The constitution and administrative machinery of ancient Indian republics were at variance to those prevalent in Monarchy.

1. Jayaswal K.P. op.cit. - p. 71.

2. Ibid., p. 75.

3. Ibid. pp. 72-73.

4. Bhandarkar, op.cit. pp. 93.

5. Ibid. p. 99.

6. Ibid. pp. 105-106.

7. Jayaswal, K.P. op.cit. pp. 74-78.

In these republics the sovereignty was vested in large central assembly which elected not only the members of the executive, but also the military leaders and sometimes officials and governors as well.¹ The President of the Executive Council was probably the President of the assembly as well. Besides supervising the general administration, one of the chief concerns of the President was to ensure internal harmony by promoting concord and preventing quarrels.² In the ideal Gana state, there were no parties and matters were not pressed to vote.³ But in normal cases members used to form parties and many of the assemblies of these republics, like the parliaments and municipalities of the modern age were torn by party factions.⁴

If the powers and functions of the republican government reflected some similarity with the modern days government, the rules of procedure evolved for the debates and working of the assembly, as reconstructed on the analogy of Buddhist sangha by Scholars like Jayaswal, Bhandarkar and others, are almost identical with the ones adopted in the working of modern parliament. The rules of procedure followed in Buddhist sangha were modelled on those of the assemblies of Ganas.⁵ Based on this

1. Altekar, A.S. - op.cit. pp. 126-127.

2. Ibid, p. 134.

3. Ibid, p. 129.

4. Ibid, p. 128.

5. Jayaswal, K.P. - op.cit. p. 86, Bhandarkar, D.R. - op.cit. p. 108. Altekar, A.S. - op.cit. p.131.

assumption we can very easily infer the working of Gana assembly if we enunciate the working of Buddhist sangha. A summary of Jayaswal's description of the procedure followed in Buddhist sangha is as follows.¹

"Deliberations were initiated with a motion which was often repeated thrice. A minimum number of members were required to meet the quorum. If the sangha adopted a resolution unanimously the question of voting did not arise, but if a matter entailed a division in the opinion of the members, speeches were made and the procedure of majority was observed. The voting was carried on with the help of voting tickets called Salakas. There was a teller, taker of pins appointed by the whole sangha who explained the significance of colours, and took the vote either secretly or openly. Sometimes to escape many 'pointless speeches' matter was delegated to an appointed committee. A member was liable to the 'procedure-of-censure' if he did not control himself in discussion. Votes of absentees were scrupulously collected. If once a question was decided in accordance with a valid procedure, it could not be reopened. There used to be recorders or clerks of the House who took down minutes of the deliberations and resolutions." Comparing this with the modern days of procedure as witnessed in parliament Bhandarkar says, "These details are enough to show

1. Jaysawal, K.P.- op.cit. pp. 87-94.

that the code of rules, which regulated the business of the assembly, was of a highly specialised and developed character, such as is observed by the political bodies of the modern civilized age.¹

The System of government, as was witnessed in such early Republics, has been praised by many Nationalist Scholars. Corporate activities in political life was reflected through these republics. Not only in 'structure' and 'form', did these republics resemble modern days Democratic republic but in 'Spirit' as well. The moral values envisaged in these republics like equality, rule of law, high sense of justice, discipline,² are taken to be the very ethos of modern democracies. Contrasting the unresponsive and unrepresentative, contemporary British government with the ones prevalent two thousand five hundred years ago, it was observed by writers that the Gana were technically of the nature of Democracy.³

But while drawing a parallel between the modern and Ancient Indian republics one has to be very cautious. Republics in Ancient India were often the oligarchies of certain Kshatriya clans who might have been the first settlers in an uninhabited tract of land. Being so they regarded themselves as the privileged class and

1. Bhandarkar, D.R.- op.cit. p. 111

2. Jayaswal, K.P. - op.cit. pp. 162-163

3. Ibid, p. 73.

maintained their superiority over other inhabitants with a great zeal. It appears that even the Kshatriya families, who arrived later, did not enjoy the privilege of admission to the ruling class, for a long time.¹ Thus Body polity of Republics seems to have been divided starkly into a 'Privileged elite' and 'masses'.

The principle of hereditary succession prevalent among the ruling families was as common in these republics as it was in monarchy. The president of Executive was designated as Rajan which has monarchical connotations. 'The chief point of difference between the oligarchic and monarchical executive seems to be that the former was based partly on the idea of clan and had to take account of the assembly. For the rest, the line between the two is very faint, almost non-existent.'²

While examining the causes for the disappearance of Republics, Jayaswal thinks it was due to the 'imperialism of Guptas' while Altekar attributes the 'Weakening of Democratic tradition and acceptance of monarchical form' for its downfall. But the malaise seems to be deeper. The majority of inhabitants were left out of any governmental activities which was a privileged monopoly of ruling elite. The members of the Assembly were guided more by personal greed and rivalry than with the welfare of people

¹ . Altekar, A.S.-op.cit. p. 113.

² . Beni Prasad, The State in Ancient India -p. 159.

This might have created a feeling of indifference towards the Assembly and its functioning. Such a feeling of indifference and alienation among the masses might have encouraged the neighbouring monarchy to invade the republic. The masses in general would have accepted the Monarchy passively with the view that it would not be worse if not better than the erstwhile Republic.

LOCAL GOVERNMENT

'Local Government' is regarded by modern historians as the bed-rock on which the edifice of central government was raised. 'Local institutions' which carried forward the administration at lower level were 'self-governing'¹ and embodied, pure 'democratic ideals.'² Participation of these local bodies in activities like collection of taxes at village and town level, not only relieved the Government to an extent but also acted as a check against its autocracy. In this regard R.K. Mookerjee observes "A vast sphere of administrative work was occupied by these self governing bodies leaving to the central Government but very few points of Contacts with the ordinary concerns or the daily life of the people. It is indeed the case of a monarchy limited by a vast democratic organization which made itself responsible for the welfare of the masses."³

Local self-Government in India, compared to its counterpart in modern Europe, had a different origin, is generally accepted by the scholars. "The fundamental difference is that, while in European Case, the State, as a fully developed and constituted body, consciously creates autonomous centres within itself by

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- 1 . Dikshitar V.R.R. - Hindu Administrative Institutions, p. 328.
 - 2 . Ibid, p. 329.
 - 3 . Mookerjee, R.K. - Local Government in Ancient India, p. 234.

devolution and delimitation of its own functions, In India the communal institutions, guilds, and local bodies have an independent origin and growth out of fluid and inchoate conditons of tribal organisation.”¹ This being the origin of local bodies, ‘they enjoy certain rights and privileges. When the State comes to supervene or be superimposed upon these, it has to treat with them more or less on terms of equality and recognize their pre-existing rights by conventions and agreements which operate as charters regulating their mutual relations.’² Dikshitar, too expresses the same view when he says that “the relation of the central government to these small states was guiding by Supervision and not by direct effective control.”³

Writing under British rule, historians of the age were often swayed by the nationalist ideology. Relevance of local ‘Self-Government’, a persistent demand among the National leaders, would be established by scholars like Mookerjee by citing its historical and practical importance. ‘We owe largely to her elaborate system of local government the preservation of the integrity, independence and individuality of Hindu culture, despite the world shaking and catastrophic political movements to which

1. Ibid, p. 7.

2. Ibid, p. 7

3. Dikshitar, V.R.R. – op.cit. p. 356.

that culture was frequently exposed in the course of her history'.¹ Practically, the existence of Self-government in Ancient India would give legitimacy to the nationalists demand of the same. The empires of India were possible owing to the previous development of local administration, reducing the physical difficulties of governing a vast area.² Having said this, it would follow as a natural corollary that any attempt at introducing self government from above must necessarily involve 'local self government, as the latter was indispensable for the proper functioning of the former. The local bodies are the outcome of natural groupings and associations which should be cherished and given a fuller scope in any scheme of genuinely national self-government'.³

An important feature of various local bodies as pointed out by modern scholars, was the fact that they were not uniformly composed and constituted. The principle of association had been two fold, one is territorial' and the other 'Communal'.⁴ In modern parlance the first is the 'neighbourhood groups' and the second 'occupational groups'.⁵ In the territorial groups the bond of physical connection promoted association whereas occupational groups were based on the community of interests and functions. Village assemblies and 'Puga' are generally cited as examples of

1. Mookerjee, R.K. - op.cit. p. 2.

2. Ibid, p. 7.

3. ibid. p. 20.

4. V.R.R. Dikshitar - op. Cit. P. 330 R.K. Mookerjee, op.cit. p. 308.

5. Dikshitar, V.R.R.- op. Cit. P. 330.

territorial groupings. Village assemblies though sometimes 'communal' as in the case of Sabha the assembly of the Brahmanas in Agrahara villages in South India – its actual working and functions proceed upon the territorial principle.¹ Puga was another body, which was based on citizenship, the territorial principle.² Puga is a local assembly either of a town or village, composed of individuals of all castes and professions, who are of that village or town.³ Gana, a term which is oftenly mentioned in Sanskrit literature has been interpreted differently by different scholars. Majumdar thinks that 'Puga' and 'Gana' are used as synonymous words and they represent a corporation of inhabitants of town or village.⁴ But most of the scholars point out that they were distinctly separate bodies. Gana is used to mean autonomous kingless clans or corporations as distinguished from Kingships.⁵ For Dikshitar Gana refers to a tribe and its organisation which enjoyed a republican form of constitution and administration.⁶ Sreni means guild, whether it be the guild of artisans, agriculturists.⁷ Being based on the common profession, Sreni says Dikshitar rightly falls under the category of occupational groups.⁸

1. Mookerjee, R.K. –op.cit. p. 309.

2. Ibid, p. 314.

3. Dikshitar, V.R.R. – op.cit. p. 353.

4. Majumdar, R.C. – Corporate life in ancient India, p. 132.

5. Mookerjee, R.K. –op.cit. p. 35.

6. Dikshitar, V.R.R. – op.cit. p. 349.

7. Mookerjee, R.K. – op.cit. p. 34.

8. Dikshitar, V.R.R. – op.cit. p. 340.

These local bodies possessed distinct organisations of their own. Each of them is invested with executive and judicial functions and other powers of government within the limits of its prescribed jurisdiction.¹ They developed a distinct body of laws or by laws to regulate their work and activities² and thus enjoyed adequate legislative independence. The king had to respect the laws of the local bodies and had also to see that the members thereof observed their own laws, violation of which he was bound to punish.³

One of the most important functions of the local bodies was the administration of justice.⁴ The procedure and rules laid down for the administration of justice by the king's courts also apply with some modifications to these lower courts.⁵ The gradation of lower courts was determined by their numerical strength and the degree in which they represented the various interests, classes or castes in the community concerned.⁶ Thus Puga was the highest court (among Kula, Sreni, Puga) because it was numerically the largest assembly on which were represented not merely the different castes, as in the Sreni, but also the interests of different crafts, trades or occupations in the village or townships. The local

1 . Mookerjee, R.K. – op.cit. p. 314.

2 . Ibid, p. 124.

3 . Ibid, p. 128.

4 . Ibid, p. 132.

5 . Ibid, p. 138.

6 . Ibid., p. 135.

courts took cognizance of both civil and criminal cases.¹ Authority of the local bodies was ultimately not merely maintained by the moral sanction of the public opinion of the community or 'universal disapprobation' as Henry Maine puts it, but was also enforced by the legal sanction of punishment inflicted by the king.²

VILLAGE ASSEMBLY

'Village assembly', its structure and function, has been described in detail, by modern scholars, in course of their study of Local Government. Local bodies described earlier found their expression at village and town level. Historians have relied heavily on the south Indian evidence because of its 'copiousness, definiteness and abundance'³ of details. Nevertheless, the characteristics of North Indian village administration can also be gauged from it because 'one can trace in South India the continuation of the same features and tendencies, the same principles of evolution and organisation as are reflected, though dimly, in the documents of the north, both literary and epigraphic.'⁴

Village was looked upon as a corporate unit of the state possessing distinct rights and duties and accountable to higher

1. Ibid, p. 135.

2. Ibid, p. 159.

3. Ibid, p. 305.

4. Ibid. p. 305

authority for due discharge of them.¹ Village Headman, was the chief officer, of the village administration. Even though he was a governmental officer his post was hereditary and thus regarded by the scholars like Altekar to be a man of the people and keen to protect their interests.² The relation between the Headman and village assembly is clearly pronounced when R.C. Majumdar observes : "Though the headman and his council exercised considerable authority they were ultimately responsible to the people at large who met in an assembly hall to discharge their corporate functions."³

What was the composition of village assembly? Whether it was a select body or was its membership open to all, has not evoked the same response. Majumdar opines that 'Probably in many, the Assembly was a select body.'⁴ Mookerjee says Assemblies appear to have consisted of all the residents of a village including cultivators, professionals and merchants.⁵ Smritis mention, says Mookerjee that all the twice born castes were represented in these assemblies provided they followed the prescribed occupations for the caste they belong. It would therefore be a mistake to suppose that the Hindu law givers made the assemblies exclusively Brahmana in

1. Majumdar, R.C.- op.cit. p. 134.

2. Altekar, A.S. - op.cit. p. 227.

3. Majumdar, R.C. -op.cit. p. 144.

4. Ibid, p. 149.

5. Mukherje, R.K. -op.cit. p. 162.

their composition.¹ Altekar regards 'that all the respectable householders of the village had an inherent right to become the members of the primary village assembly. It is interesting to note that the different terms by which they were known, mahattamas in U.P., mahattama in Maharashtra, mahajanas in Karnataka and Perrumakkal in Tamil Country, all means the same thing, Great men of the village.'² However, there is unanimity regarding the point that , Sabha or Mahasabha which was the assembly of the Agrahara villages was exclusively composed of Brahmanas.

Although the village Assembly was the supreme authority in the village corporations, the detailed administrative works seemed to have been carried on by the executive committee or council. Altekar points out that in Tamil Country, sub committees were appointed by the assembly to carry out administrative works but this was not so in North and Karnataka.³ In Northern India village council consisted of five members only ,⁴ whereas in Karnataka village mahajanas used to make informal arrangements for the discharge of their duties.⁵ It was agrahare villages from which we get detailed information about the constitution and function of sub-committees.

1 . Ibid, p. 161.

2 . Altekar, A.S. -op.cit. p. 228,

3 . Ibid, p. 235.

4 . Ibid, p. 235.

5 . Ibid, p. 235.

The procedure employed by assembly to create sub-committees, minimum qualifications as condition of eligibility and the principle of rotation have been appreciated by scholars. Explaining why the selection of Committee by lots though based on universal suffrage lacked democratic principle, Majumdar say "Probably the conformity to the conditions of eligibility for membership produced for all Practical purposes approximate uniformity of competence and capacity in the persons named on the voting papers or tickets, so that there was not much to choose between them."¹ It has also been pointed out that, "the method of Casting lots would give no scope to canvassing and other electioneering methods of doubtful utility and ethical value."² Regarding the selection of the Council members Altekar holds "It does not seem that election of the modern type giving rise to party jealousies and rivalries was prevailing anywhere. Persons were periodically elevated to the council by the consensus of public opinion as expressed in the general meeting of all the respectable house holders of the village."³

The minimum qualifications to seek election in these local assemblies comprised of property, education, age and conduct. These have been interpreted to be based on sagacity and foresight.

1. Mookerjee, R.K.-op.cit. p. 173.

2. Ibid.,p. 173.

3. Altekar,A.S. - op.cit. p. 235.

Candidates were required to own a house and at least ¼ Vali of tax paying as 'it was felt that those who deal with public funds should be persons above need.'¹ The age limit was an antidote to youthful recklessness and extremism affecting administrative works.² Great precautions were thus taken to safeguard members against corruption.

Fixation of tenure for one year and in case of reelection transfer to another committee was sound in principle and wholesome in its effect. It was calculated to give every villager a chance of serving on them and thus qualifying himself for the responsible membership of the corporation to which he belonged.³ Altekar⁴ and Mookerjee⁵ say, the annual change of office-bearers opens up opportunities to every qualified man in the village of being associated with its administration and acquainted with all its details and facts. "Thus in the course of time the general assembly of the village would be practically made up of these ex-administrators, and be consequently competent to exercise a very wholesome supervision over its several committees for executive work, the efficiency of which was already secured by rules that would exclude incompetent, ignorant, irresponsible dishonest and wicked men."⁶

1. Ibid, p. 232.

2. Mookerjee, R.K.- op.cit. p. 179.

3. Majumdar, R.C.- op.cit. p. 168.

4. Altekar, A.S.- op.cit. p. 234.

5. Mookerjee, R.K.- op.cit. p. 181.

6. Mookerjee, R.K.-op.cit. p. 181.

Functions of village assembly were aimed at moral and material welfare of the people. Mookerjee divides the function of assembly into two parts 'internal' and 'external', "The essence of local government being its double relationship, that to the central power and that to the people of the locality committed to its care, its functions are naturally two fold.¹ One of the primary duties of Assembly was the protection of person and property of the people, which followed as a natural corollary or rather the prerequisite' of the Self-rule.² Based on the evidences of many 'inscriptions' and 'smritis' it has been pointed out that the assembly must have had at its disposal adequate military force for the maintenance of peace, and the defence of the village against attacks from within and without."³

Land being the principle source of well being, assembly invested itself with special responsibilities in regard to the village lands. The ownership of the village waste land was vested in the village councils.⁴ In relation to the acquisition of new land, either through fresh-clearing or forfeiture for not paying of revenue dues, and its distribution, disposal or sale the assembly was possessed of sweeping powers.⁵ The transfer of land is a transaction involving

1. Ibid, p. 212.

2. Ibid. p. 219.

3. Ibid, p. 215.

4. Altekar, A.S. - op.cit. p. 236.

5. Mookerjee, - op.cit. p. 222.

many legal formalities and technicalities. The evidence shows that the assembly was fully alive, and capable of conforming, to the legal requirements of such transaction.¹ The extent of the control of the assembly over the village land, even if in private ownership, is also evident from the fact that they exercised the rights of pre-emption as against outsiders.²

External functions of the assembly were its duties and obligations' towards the Central Government or the King.³ Most important of such obligations was the collection and payment of the royal revenue due from the village. It is generally accepted by modern scholars like Majumdar, Mookerjee, Dikshitar, Altekar, that once the account was settled between the king and the council, the latter had to collect the dues from the land owners and even proceed to auction their land, if they were in default for a long time. The discharge of this duty was obligatory on the assembly.⁴ Another obligation towards central government 'was the discharge of their duties by the assembly as trustees of properties committed to their care and administration.'⁵ The assembly were in fact in the last resort held accountable to the king with regard to their management of these properties

1. Ibid., p. 225.

2. Ibid, p. 229.

3. Ibid, p. 234.

4. Ibid, p. 235.

5. Ibid, p. 243.

according to the conditons of the trust.¹ On the authority of many commentators on Hindu law, Mookerjee cites some others grounds of royal interference with the local corporations. 'The corporation must not arm itself unless it is to repel some attack from within or without in connection with the discharge of its duties of watch and ward within its territorial jurisdiction. Other wise such arming will be treated as treason.'² Along with political crimes, moral crimes should also be checked by the king e.g. prostitution of Widows or other virtuous females among heretics or other sinful men even if it be a long established institution.³

Other functions associated with the village Assembly were settlement of village disputes, organise several works of public utility, relief measures during natural calamities like famine, act as trustees and local Banks etc.... Besides the material comforts village assemblies took steps to promote cultural and intellectual progress as well.⁴

Even though there were occasions of Central interference, the village Assemblies enjoyed a large degree of autonomy. The village communities and councils being of hoary antiquity and derived their powers from immemorial custom and not from any

1. Ibid, p. 243.

2. Ibid, p. 247.

3. Ibid, p. 247.

4. Altekar, A.S. – op. Cit. P. 239.

charter or delegation from the central Government.¹ It was usually the village primary Assembly that determined the constitution of its committees and not the central government.² Similarly Majumdar points, 'Assemblies could change the constitution of the committees and other regulations without any permission or sanction of the Government.'³ It has also been observed that 'the elaborate rules laid down for the election of committees most strikingly illustrate the ultra-democratic character of these village corporations.'⁴ Regular discussions were carried on in the assembly and the idea of liberty of speech was probably not unknown.⁵ Thus one might agree with the views of Altekar., 'the Central Government exercised only a general supervision and control over the village assemblies and their councils.'⁶

TOWN COUNCIL

The administration of towns and cities was conducted on such efficient lines as that of the villages.⁷ The government official who was head of the administration and represented the state was often assisted by a non-official committee, variously called as

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1. Ibid. p. 242.
 2. Ibid. p. 243.
 3. Majumdar, R.C. – op.cit. p. 172.
 4. Ibid. p. 167.
 5. Ibid. p. 144.
 6. Altekar, A.S.- op.cit. p. 243.
 7. Dikshitar, V.R.R. – op. Cit . p. 374.

goshthi, pachakula or chaukadika¹ Mookerjee points out that while sabha or urar was a village assembly, the nagarattar might have been a city municipal assembly.²

All classes and interests were represented on the committee. Sometimes towns were divided into wards and each ward sent its own members to the committee.³ Modern methods of election through ballot nor the lot system, seems to have the basis of selection for membership of the committee. Very probably elderly persons, who had earned the regard of the residents by their experience, character and ability, must have been sent to the council by a general consensus of public opinion.⁴

The committee used to have an executive of its own for the speedy and convenient dispatch of business. The executive was called vara in Rajputana and Central India during the Pratihara period. Such a name was given to the executive because it used to change by turn (vara).⁵ The number of members of the executive committee varied according to the needs of each case.

Such town committees supervised over the functioning of lower rungs of administrative machinery. It was their duty to look

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1. Altekar, A.S. – op.cit. p. 221.
 2. Mookerjee, P.K.- op.cit. p. 203.
 3. Altekar, A.S.-op.cit. p. 221.
 4. Ibid, p. 222.
 5. Ibid, p. 222.

after the collection of taxes, investment and recovery of public funds, the administration of trust funds etc. ¹ The characteristics of larger associations is described by Mookerjee as "They provided the material conditions and facilities for the growth of a wider political and democratic life in the country. They served as the organs of a larger public opinion controlling and organizing larger democracies."²

Dikshitar delineates features of Municipal administration and compares them with present.³ The public health department of the Municipal administration employed both preventive and curative measures to prevent epidemics. There were census clerks who noted from time to time the number of houses with their respective inhabitants, their caste professions and their earning capacities. Preventive measures were taken to quench fire. In case of famine relief measures were undertaken. Thus the municipal administration of ancient India anticipates tendencies which would satisfy even an expert commissioner of a modern city corporation.

Local self government facilitated the working of administration at lower level. Such bodies were largely socialistic in character and thus embodied pure democratic ideals. The spirit of cooperation so vital for the community life was nurtured by such

1. Ibid, p. 222.

2. Mookerjee, R.K. – op.cit. p. 204.

3. Dikshitar, V.R.R.- op.cit. p.p. 376-380.

institutions. It relieved the people from the impersonal, mechanistic governmental machinery and created a lively interest among the masses towards the polity – local bodies based on the principle of neighbourhood counters the standard stereotype of Europeans that the only means of association at the lower level was caste affiliation. So much being the importance of these local bodies, scholars like Mookerjee called for its revival. “This Pluralism of the group, as an intermediate body between the State and the individual units, has been the most characteristic feature of Indian polity through ages, and indicates the lines on which Indian political development should proceed.”¹

1. Mookerjee, R.K. – op.cit. p. 317.

Section III

Post Independence Era (1950-2000)

CHAPTER - V

POST-INDEPENDENCE WRITINGS ON ANCIENT INDIAN POLITY : SOME IDEOLOGICAL UNDER- PINNINGS

Independence from the British rule in 1947 was an epoch making event in the history of India. It was not just another phase but altogether a new 'era' in the historical evolution of a nation. The writ of the 'state' was felt in every nook and corner of the country and 'sovereignty' was vested in the will of the people at large. Constitution of the new republic, clearly enunciated the fundamental rights and committed itself to safeguard the heterogeneity of its people. In spite of wide diversity in language, religion and cultural ethos, the unity of India is a marvel for many. This led J.D.M. Derrett to remark that. 'The Indian 'States' special feature is the peaceful, or perhaps mostly peaceful, coexistence of social groups of various historical provenances... without ever assimilating to each other in social terms, in ways of thinking , or even in language.'¹

Notwithstanding the Colonial exploitation for such a long period, the spirit of the nation was resurgent. Once the birth pangs – which manifested in the large scale violence accompanying the

1 . J.D.M. Derrett, in A.L. Basham's edited 'A cultural history of India' p. 124.

partition of India – were over, the task of nation building was undertaken on a massive scale. As a consequence the country witnessed an unprecedented growth in Industry and agriculture. A solid foundation for the development of human resource was laid down under such circumstances intellectual world' and for that matter 'History writing' as well reflected some well pronounced changes. Historiography of ancient Indian polity betrayed certain traits which were at variance to both the 'imperialist' and 'Nationalist' school of thought. One important feature however of the new 'writings in History' was that it could not be subsumed under any particular terminology. Nevertheless three broad patterns with respect to general historiography of ancient Indian Polity can be underlined.

The Nationalist historiography continued albeit with some mellowing down of its tone. Once the urgency of National movement was over the teleological aspect of history writing had no tangible objective and the interpretation of past ceased to provide, as Romila Thaper says 'ammunition for the Nationalist ideology.' The historians were no more allured to prove that Ancient India witnessed the emergence of "Republics' and 'democratic' institutions' very similar to the modern ones. The same passages of Dharmasutras and Epics which were earlier

1 . Thaper Romila – From Lineage to state – p. 3.

used to demonstrate the prevalence of responsible and limited monarchy were interpreted differently. V.P. Varma thus opines 'the instances of deposition and banishment of kings by people found in Brahmanas and Epics do not indicate constitutional monarchy and limited kingship.'¹ Instead of taking pains to demonstrate that the concept of state in Ancient India was fully recognised, writers thought it more pertinent to discuss the issues of 'sovereignty'; 'aims and functions of State;' relation between religion and polity', and 'mutual rights and obligations of state and citizens'.

Historians like U.N. Ghoshal, H.N. Sinha, A.S. Altekar, P.V. Kane and many others, who were prominent nationalist historians, continued to write in post independence period as well. Though their basic view-point remained the same, their subject matter became more extensive and elaborate. Not having to confront the British, their writings reflect a critical and more realistic approach. Scholars like V.P. Varma, B.A. Saletore, R.P. Kangle etc., followed the general trends of nationalist historiography, V.P. Varma demonstrates the general temper of the newly acquired liberty and equality, when he does not over-emphasise the secular and scientific attitude of ancient Indians. He

1 . Varma, V.P. - Study in Hindu Political Thought and its Metaphysical foundations- p.26.

underlines the fact that polity of early India was no less influenced by metaphysical and spiritual ideas.

Western Scholars, which earlier on concentrated mainly on the notion of 'oriental despotism' and were more than eager to pronounce that Ancient Indian people were 'apolitical' creatures seem to have reoriented their views regarding the past of India. 'Religion' was taken by the contemporary Indologists to be the most important factors which shaped the society and polity in Ancient India. The concepts like Dharma, Karma, Moksha, Kama, which had religious connotations, were according to these indologists the factors which shaped the very ideals and values of polity. Thus J.D.M. Derrett, taking Dharma to mean truthfulness, modesty, cleanliness, courage, tranquility observes, 'This attitude towards moral qualities and forms of behaviour, introduces us to the fact that equilibrium rather than equality, peace rather than liberty were the fundamental ideals. These notions can be interpreted partly as an escape from and partly as an insurance against the primeval chaos which was supposed to lurk in the background, the chaos which was believed to justify indirectly, and positively to require the state itself.'¹ underlining the relation between Religion and polity J. Gonda says 'The sacred nature of kingship assumed in India much more definite character than in the Pre-historic

1 . Derrett, J.D.M. – in A.L. Basham's edited Social and political thought and institutions' p. 126.

European antiquity.’¹ Comparing Ancient Indian Civilization with other civilizations of olden days, Basham says ‘Parallel is closest between Hindu India and medieval western Europe. Where secular arm was in theory subordinate to the Spiritual and where a common religious system provided a degree of cultural solidarity over a wide region governed by numerous rulers.’²

Anthropological researches conducted by likes of Malinowsky, Morgan and the sociological interpretation of past cultures by Weber, Parsons among others, also had its bearing on the study of ancient Indian Polity. The kin based society of Vedic period was assumed by scholars like Gonda, Heestermon, Drekmeier to possess the characteristic of a primitive society. Various rituals and sacrifices, according to these historians reflected the reproductive aspect of nature. The symbolisms of the rituals were used to reconstruct the socio political reality of the time. The various rituals associated with Rajasuya and Vajapeya Sacrifices, were the means through which not only the psycho-physical superiority of kings was reiterated but it also imparted the office with magical power. Thus J. Gonda opines, ‘The chariot race as with the cow raid and dice play represents a test for recognising the ruler’s superiority in valour and physical prowess as well as magical device to defeat his adversary.’³

1 . Gonda J. – Ancient Indian Kingship from religious point of view 143.

2 . A.L. Basham in Forward to J.W. Spellman’s political theory of anc. India.’ P. vii.

3 . Gonda, J. –op.cit. p. 85.

Another school of thought which became prominent in Post independence era was the 'Marxist Historiography'. Marxian concepts like 'Economic determinism', Surplus production, class struggle, ideology being the superstructure raised on the relations of production, ... influenced the writings of scholars like A.N. Bose, D.D. Kosambi, R.S.Sharma, Romila Thaper, D.N. Jha among others, working class and Peasants' movements which became dominant as a part of National movement from the 1930 onwards might have impelled some scholars to study the role of mode of production in shaping the society and polity of India. Kosambi while discussing the relative shortcomings of traditional methodology employed to understand history says 'We are thus led inevitably, to concentrate upon successive developments, in chronological order, in the means and relations of production. Only this can tell us how people lived at any period.'¹ R.S. Sharma traces the existence of upper-class in the form of Brahmanas and Kshatriyas.² These historians also underline the evolutionary nature of socio-polity of ancient India. R.S. Sharma and Romila Thapar both accept that the State which emerged in the middle Ganga valley in around middle of the first millennium B.C. was not a sudden event but a long drawn process. In this process, the production of surplus as a result of improved techniques of

1 . Kosambi D.D.- An Introduction to the Study of Indian History – p. 6.

2 . Sharma,R.S.- Material culture and social formation in Anc. India. P. xvi.

agriculture, which assured a regular supply of taxes to the king, played the pivotal role in the formation of state.

I

Emergence of an independent sovereign state in which every citizen had a say in the formation of government, was altogether a new phenomenon in the polity of India. As a natural corollary many thought it pertinent to caution the people against such factors which may not be in conformity to the proper functioning of the new Republic. Scholars like Altekar thus professed "we have already established a full fledged republic in India in 1951. It will be, therefore, necessary to understand the causes that led to the disappearances of the republics in ancient India."¹ Exhorting the New State to follow the Path adopted by ancient Republics like Lichchhavis, Altekar further observes 'Modern India which seeks to develop republican traditions and institutions, may well Carve on the gate of its parliament House the prophesy of Buddha about the Lichchhavi republic . The republic of the Lichchhavis, said the Buddha, would prosper as long as the members of their assembly met frequently, showed reverence to age, experience and ability, transacted the state business in concord and harmony.'²

Legitimisation of different measure adopted by the new state was another important motive which influenced the views of some historians. This could be more easily achieved if a parallel can be

1 . Altekar, A.S.- State and Government in Ancient India. P. 378.

2 . Ibid, p. 379.

drawn between the aims and objectives of the modern India with those of the Ancient Indian Polity. The ancient Indian State was not merely a tax gathering corporation, interested only in Preserving law and order.¹ Pronouncing that the mixed economy adopted by the modern India had its tradition in ancient India, Altekar says. 'If the state runs the key industries and controls the rest, if it encourages the local bodies and city corporations also to enter the field of production and constructive nation-building activities, we shall have an economic structure, more or less similar to that in ancient India and likely to meet the needs of the time.'²

One of the most glaring drawbacks of the ancient Indian Polity was the inhuman treatment meted out to the Sudras and untouchables which was exacerbated by the fact that Preservation of varnashrama dharma was the primary duty of state. Such an aspect of Ancient India was further highlighted by the many depressed class movements and the writings of scholars and thinkers like B.R. Ambedkar. In order to mellow down such critics, some historians pointed out that 'State' was different to 'Society' and for most of the 'ills of the society', State cannot be held responsible. We must not, says Altekar, forget that a state is but the spokesman of the society it represents. If certain iniquitous

1 . Ibid, p. 384.

2 . Ibid, p. 384.

practices were tolerated by the State in ancient India, the society is as much to blame as the state.¹ In the same vein he further adds 'people in those days had a burning and living faith in the doctrine of Karma. Even the Sudras and untouchables believed that they were born in their particular caste as a natural result of certain sins committed by them in Past lives.It was impossible for the ancient Indian state even to think of disallowing these disabilities, much less of removing them.'² It was also pointed out that unequal treatment of their subjects was a common feature in all the civilizations. We should however, not forget that such inequities and inequalities existed in all civilizations, eastern and western, and have not completely disappeared even in modern times.³ Advocating a strong central government as a necessary condition for security and development of country it was pointed out that 'In the age of Ashoka, Chandragupta II and Akbar India was able to make good progress, because it had a strong central Government.'⁴

H.N. Sinha in his study of ancient Indian Polity mainly concentrated on locating the sovereignty of State and also endeavours to trace the relation between religious conflicts and its manifestations in the 'Nature of State'. Analysing the development of Ancient Indian Polity. Sinha concludes that 'sovereignty in

1 . Ibid, p. 385.

2 . Ibid, p. 385.

3 . Ibid, p. 385.

4 . Ibid,p. 388.

ancient Indian polity was sovereignty of the king, who was the chakravartin, the Dharmapravartaka, the maker of the age, a god in human form, the lord of the land and water, and the source of law and justice.¹ Kingship which was a 'secular institution'² and was 'primarily concerned with defending Rit'³- Cosmic order embodied in the form of social and moral order in vedic period gradually transformed itself into an all powerful and all pervading machine under the Mauryans. State under Ashoka was ubiquitous, and actually dominated everything.⁴ Ashoka brought under state control the affairs of the Buddhist sangha, the Jain Monks, the Brahmanas ... and sought to control the religious and social conduct of the people.⁵

Kingship according to Sinha, which for most of the period uptill the age of Mauryas, was not influenced much by religion began to attain Divinity in the period following the decline of Mauryans. The invasion from central Asian hordes who often embraced Buddhism, in a way compelled the 'Brahmanism' and 'State' to collaborate with each other so that neither is perished, seems to be the gist of the hypothesis put forward by Sinha. "Both - Brahmanism and State - must pool their resources in order that Buddhism might be suppressed and Brahmanism might revive, as

1 . Sinha, H.N. - The Development of Indian Polity, p. 223.

2 . Ibid, p. 34,

3 . Ibid, p. 31.

4 . Ibid, p. 136.

5 . Ibid, p. 135-136.

also the foreign barbarians might be repulsed. In this crisis religion began to work on the susceptibilities of the people in order that they might tender their whole hearted allegiance to the king.... Hence an attempt was made by Brahmanism to invest the king's person with the halo of divinity and his authority with divine sanction."¹ This was the apotheosis of Kingship, deification of kings.²

Commenting upon the nature of empire in Ancient India, Sinha observes 'the system was neither unitary nor Feudal Federal but tributary one.'³ The emperor could not be 'Unitary' because in ancient India empires arose as a result of the struggle for supremacy among a Congeries of States.'⁴ and the 'vanquished kings were reinstated where they were recognized as defacto as well as de-jure rulers'⁵. It could not be called feuda-federal states as Political and social status of people was not based on land tenure system but on the social organisation based upon the caste.⁶ The ancient Indian empires were 'tributary systems'⁷ 'The relation between the Paramount and the vassal kings was one of voluntary or forced allegiance as the case may be. But the government of the

1 . Ibid, pp. 163-164.

2 . Ibid, p. 164.

3 . Ibid, p.

4 . Ibid, p. 13.

5 . Ibid, p. 13

6 . Ibid, p. 14.

7 . Ibid, p. 14.

Paramount and the vassal kings was each an independent though uniform unit.'¹

V.P. Varma in his efforts to unravel the chief characteristics of Ancient Indian Polity underscores the importance of Hindu metaphysical notions and their moral attitudes. The Psychological bent of ancient Indians and the Importance of Caste were also emphasised by him, for the proper understanding of Ancient India. Certain Socio-religious concepts like Dharma, Karma, Schools of Philosophy like Vedanta, Sankhya, which are generally employed to understand the society and culture of Ancient India are according to Varma the base on which the entire edifice of ancient Indian Political philosophy was erected. The Spiritual and religious orientation that was imparted to Hindu thought by the vedas and the Upanisads continued to be a dominant force even when the country advanced politically and big empires were being built.² Views of scholars like Ghoshal who think that Kautilya's Arthasastra emancipated polity from theology is not accepted by Varma. Varma observes that the basic notions of Hindu theology and religion are all accepted by Kautilya.³ Accepting the Yoga and Samkhya as branches of dialectics or the recognition of the fact that, if the king performs his duties well he will attain heaven, are

1 . Ibid, p. 14.

2 . Varma, V.P. – Hindu Political Thought and its Metaphysical foundations. P. 62.

3 . Ibid. p. 94.

some examples which according to Varma demonstrate the silent acceptance of transcendental realities.

Varma denies the existence of a theoretical and abstract concept of state in Ancient India but accepts that 'ancient India Presented the prevalence of political life under the leadership of a recognised superior.'¹ He counters such thinkers like Hegel who says 'Hindus were a people but had no state' or Cox who concludes that Brahmanic India may be called a society without an organised state. The repudiation of the conceptual formulation of the abstract legal state, does certainly never imply the historical non-existence of the factors that compose a state.² Futility of comparing ancient Indian Political realities with the modern juristic abstract concepts is again made obvious by Varma by his analysis of Sovereignty. If we accept the modern positivistic version of Sovereignty which defines it as absolute, universal, all comprehensive power, there was no concept of such, in Ancient India. Says Varma. However, there were sovereign states in ancient India in the sense that the holders of the political office of kingship could generally make their will prevail by resort to force.³ Kshatra or Kshatrasri , Rajyam, Aisvarya, Prakriti Sampadah which are translated by Nationalist historians Sinha, Ghoshal Shamasastri & Sarkar, respectively to mean sovereignty is not accepted by Varma.

1 . Ibid. p. 16.

2 . Ibid, p.

3 . Ibid.,p. 81.

Besides emphasising the spiritualistic and ethical aspect of ancient Indian political thought Varma also opines that 'it will be very useful to have some idea about the social system in ancient India for understanding Hindu political philosophy.'¹ Due to Caste system Hindu society was very different from any social structure characterised by impersonalistic interaction and legal contractual relationships.² Dwelling upon the political consequences of caste system Varma pointed out that 'the Monopolistic caste system led to the increase of royal power.'³ The caste system was based on the concept of social distance and social sanction for the infringement of caste laws and hence due to lack of political fraternisation a united front could not be presented to the holders of political powers.⁴ The firmly entrenched caste structure was the greatest bulwork of a conservative corporativism and even vague, elementary, and undeveloped conceptions of individual rights versus the state did not emerge in ancient India.⁵

Kingship which is often interpreted by many thinkers to have originated as a contract between the ruler and the ruled is opposed by Varma. He says there is no example of any contractual conception in Brahmanas⁶ and it would be reading too much if we

1 . Ibid, p. 43.

2 . Ibid, p. 43.

3 . Ibid, p. 52.

4 . Ibid, p. 53.

5 . Ibid, p. 54.

6 . Ibid, p.

interpret the concept of the 'Great Elect' to mean that according to Buddhism political authority is based on consent.¹ Varma accepts 'that some sort of consensus is implicit in Buddhist theory, but consent always implies an exact notion of the rights and liberties of the people which we do not find specifically or even indirectly mentioned here.'² However Buddhist theory of cosmology, unlike its Brahmanic counterpart stressed the psychological factors rather than divine will³ for reconstructing a historical event. The conception of kingly power as a 'trust', is according to Varma, Primarily due to the vedantic and Sankhya metaphysics which takes man as a 'mere agent' in the whole divine scheme. 'If the king is a mere agent, then egoistic engrossment in the pursuit of political honour should be replaced by a conscientious adherence to the canons of duty. Thereby the tendency to treat political office as a mere trust would get philosophical and moral reinforcement.'⁴

Metaphysics of Karma and Dharma says varma make impossible the emergence of certain political problems like the individual versus the State or politics versus ethics or the conception of the political responsibility and accountability of the king to the people.⁵ Not equating Dharma with Law, as is a common practice Varma observes, that 'Dharma always remained a

1 . Ibid, p. 194.

2 . Ibid, pp. 194-195.

3 . Ibid, p. 188.

4 . Ibid, p. 222.

5 . Ibid, p. 271.

moral philosophical norm for action but never was conceived as the supreme political power.¹ The duties prescribed for a king under Rajadharma does not imply any legal or constitutional binding but remained moral and ethical in nature. "We do not find any support for the idea of the idea that the concept of Dharma implied some notion of the 'balancing of the principles of authority and responsibility'. We can only speak of a moral responsibility of the king and that also in a vague sense of 'debt' to the people as found in the Ashokan inscriptions".² The question of Social versus ethical or political versus ethical a recurrent theme in other ancient civilizations do not pose any difficulties for ancient political thinkers. The notion of Varnashrama dharma makes the Problem, of the extent to which a good citizen can be a good man meaningless.³ Adherence to Svadharma will be a social task, it will also serve the good of the kingdom, it will be an ethical imperative and if performed with the spirit of disinterestedness it will also lead to divine realisation.⁴

B.A. Saletore gives a comparative analysis of Ancient Indian Polity and those prevalent in other ancient civilizations like Babylonia, Greece. He also endavours to underline the differences and similarities between the different Nationalist historians on the topics like origin of state. Nature of state and the general features

1 . Ibid, p. 177.

2 . Ibid, pp. 149-150.

3 . Ibid, pp. 154-155.

4 . Ibid, p. 155.

of Dandaniti. Effusing the general temper of Nationalist historiography Saleatore observes that Dandaniti neither intended to enslave the population nor was unrelated to practical needs; 'It (Dandaniti) created an atmosphere in which the aspirations and feelings which sprang from the unrepressed activities of all sections of society, were allowed to grow adding thereby to the general well-being of the social order.'¹ Emphasising upon the difference between socio-economic condition in ancient India compared to that of modern ideas, Saleatore thinks that even though the notion of territory population Was present theoretical notion of state seems to be unknown to the ancient Indian political thinkers. The theoretical concept of the State, as we now understand it, was non-existent in the Past; and the ancients do not seem to have endeavoured to differentiate between the state and government as has been done in the modern times.²

In addition to general works on Ancient Indian Polity, there were scholars who prepared their dissertation on Mahabharata. Such works though seems to be specific in its approach speculate on the general characteristics of ancient Indian society and Polity. B.P. Roy points out the futility of such propositions which regard state in ancient India to be a theocratic or secular organisation. He suggests that real character of state in the epic is a welfare state which not only stands for police work, but for all round prosperity

1 . Saleatore, B.A. – Ancient Indian Political Thought and institutions p. 27.

2 . Ibid, p. 57.

of the people'¹ N.K.P. Sinha tries to understand the ancient Indian polity within the general perview of the Purusarthas and emphasises the fact that Dharma was the key concept which had an everlasting effect on polity and political thought of ancient India. Dharma, says Sinha "stands for duty, pertaining to both individual as individual and a member of a particular Varna; virtue; beautitude; kingly function; law; usage; religious creed; justice; metaphysical entity, etc. It is thus a category of ethics, politics, law, philosophy and sociology and may well be compared with the European concept of law of Nature."²

Kingship, says Sinha, is glorified in Mahabharat and is not only concerned with the protection from anarchy but also includes the all round development of people. Compared to the Vedic and Smriti literature this exaltation is attempted on rational grounds.³ Functions of the kingship are supposed to be the Dharma of the king or Rajdharma, and any violation of such was taken note of and people expressed their opinion with candidness.⁴ The public opinion, mainly mobilised and articulated under the leadership of the brahmanas is also (besides the conscience of the king) calculated to prevent him from covering from the path of dharma.⁵

1 . Roy, B.P. – Political ideas and institutions in Mahabharata – p. 119.

2 . Sinha, N.K.P. – Political ideas and ideals in Mahabharata. P. 81.

3 . Ibid, p. 246.

4 . Ibid, p.p. 174-175.

5 . Ibid, p. 275.

II

Western Indologists, speculating upon the intricacies of ancient Indian Polity, too, could not make themselves indifferent to the changed socio-political realities of India. Summing up the general characteristics of such writings R.S. Sharma opines, 'After India attained independence the west developed a kind of Neo-orientalism based on sociology. As a concession to the independent Republican Status of India, Western historians and indologists modified the idea of perpetual despotism, but they placed undue emphasis on the role of religion, particularly rituals and on the divinity of kingship.'¹

Besides religion scholars like Drekmeier, Heesterman, Gonda, Tried to understand the symbolism and mysticism of ancient Indian rituals and correlate them with the newer findings of Anthropology. It was generally assumed that vedic society was tribal and thus reflected the features of a primitive society. Such features were compared with these found in contemporary primitive society and based on such an inductive – Deductive exercise ancient Indian polity was reconstructed, albeit tentatively. Although many of the conclusions drawn by such scholars were refuted it was altogether a new approach in the historiography of ancient Indian Polity. It called for greater field work and

1. Sharma, R.S. – op.cit. p. xxvi.

reinforced the view that history of man passes through various stages, some of which are universally found in all the societies present and past. Such an emphasise on empiricism had immense advantages for a civilization which can not boast of a tradition in which history had an impact on the intellectuality to the extent, that it was cultivated as an independent branch of knowledge.

Many socio-cultural concepts of ancient India like Dharma, Moksha, Brahman, Karma were analysed and often given a new interpretation. It was generally assumed that even though such terms had metaphysical and spiritual connotations, their sociological implications were perhaps more pronounced. The general conclusion of these historians was that the real guiding force in ancient India was the preservation of a society based on varnashrama dharma which was dominated by Brahmana - Kshatriya combination reflecting spiritual and temporal power respectively. Any deviance from the prescribed duties and norms would lead to doom is a recurrent theme to be found in the ancient literature of early India. In ancient India, says spellman, 'the fear of anarchy was almost pathological. Under lying every concept of kingship was the doctrine of matsyanyaya... Although this concepts of human nature existed in other countries, it was in India that it reached its highest development and became the central theme of political philosophy.'¹

1 . Spellman, J.W. Political Theory of Ancient India. – pp. 4-5.

Concept of law, its relation with custom and usage, its implications on socio-polity of Ancient India, its relation with religion and philosophy, was another field which drew the attention of modern western Indologists. J.D. Derrett and R. Lingat are two scholars who concentrated mainly on law of ancient India. It was generally underlined that supremacy of law bereft of its religious connotations was a rare phenomenon in ancient India. Instead of any constitutional and legal limitations on the kingship it was vague psycho-moral set of rules subsumed under the ubiquitous Dharma. Such an interpretation of ancient Indian Law and its relation with kingship was in many ways contrary to those given by Nationalist historians who had a penchant of tracing in Ancient India the existence of 'constitutional monarchy'.¹ Thus J.D.M. Derrett observes 'Indian scholars have been wedded to the view that the rulers were subject to the law, and when asked to whom law was subject they are forced to reply 'God'. One may assume this is wishful thinking, and unconsciously entertained for the purpose of making unflattering comparisons with the legal systems of the west.'² In their effort to understand the relation between custom and law and whether custom was eternal or not scholars like Derrett think that, 'there appears to have been no stage at which law was immutable, at which custom was not open to

1. Banerjee, P.N. – Public administration in Ancient India. P. 51.

2. Derrett, J.D.M. – Religion, Law and the State in India – p.p. 165-166.

influence from jurists, or to modification or even abrogation at the hands of the ruler.’¹

A.L. Basham was one of the foremost Indologists, who studied Ancient Indian polity by taking into account the peculiarities of its culture and society. Religion, did influence the polity, for Basham says ‘In its finished state the doctrine of royal divinity is explicit and categorical.’² But religion could never become overwhelming and theocracy as witnessed in west was not witnessed in Ancient India. ‘For Hinduism the divine inheres in some measures in everything Divinity is almost common place, the property not only of great Gods, but also of Brahmins, ascetics, husbands, wives parents, teachers, cows, snakes , tulasi plants, peepal, and banyan trees.’³ So, though he was regularly addressed as gods or deva, the king did not always receive in ancient India the object and obsequious adoration accorded to emperors in some other ancient civilizations.⁴ Basham underlined the fact that dharma, artha and kama of harmoniously pursued lead to salvation (moksha), assumed to be the basic Kernel of Ancient Indian society, was in fact more a norm, a guiding principle than a practical reality. ‘Ancient India generally had a healthy realisation that most men were not temperamentally suited to asceticism, and her systems of society and government,

1. Ibid, p. 151.

2. Basham, A.L. – in C.H. Phillips ed. Politics and Society in India . p. 16.

3. Ibid, p. 16.

4. Ibid, p. 7.

while making room for the sanyasi, did not generally envisage an extremely puritanical, where the layman was forced to conform to the ascetic's standards as far as possible.¹ He further adds, king like Ashoka seems to have been something of a puritan, and to have attempted to enforce his own high standard of morality by legislation. But in general the king was not the arbiter of morals; he merely enforced the existing moral codes of the classes and castes in his kingdom, as interpreted for him by the learned brahmans of his court.²

State taken as an abstraction in modern political science was not understood by ancient Indian political theorists. Basham says, it seems doubtful whether there was any clear idea of the state in Pre-Muslim times.³ Elaborating upon such a hypothesis he observes, 'In India such political mysticism was discouraged by the doctrine of Dharma, which concerned society and not the state, and by the fundamental individualism of all the metaphysical systems. The ultimate aim of all valid and worthy human activity is salvation, which can not be achieved by corporate entities such as peoples, castes, and families, but only by individual human beings. Government exists to serve the society, and, on final analysis, society exists to serve the individual.'⁴ Rajya generally translated as 'state' is not accepted by Basham. In early

1. Ibid., p. 13.

2. Ibid, p. 13.

3. Ibid, p. 21.

4. Ibid, p. 21-22.

sources it (Rajya) is best translated 'kingdom'.¹ It has also been pointed out that the list of seven prakritis constituting a state, does not include the subjects, without which no state can exist.² The seven factors of sovereignty, it seems are merely a conventional and not very accurate formulations of the main elements which must be taken into account for the successful conduct of the government.³

Delineating the relation between the kingship and society and the very raison de-ta of government, Basham thinks, that it was the fear of anarchy leading to the complete destruction of society and religion, that resulted in the origin of kingship. All schools of thought had the doctrine in common that government is an unfortunate necessity of the age of decline.⁴ The difference between the Hindu and Buddhist and Jaina theory of Kingship lies in the fact that former allows the intervention of Divine while the Buddhist and Jaina take kingship to be entirely a human institution. 'For the Hindu Kingship saves the world from the most terrible anarchy, in some degree halts the cosmic decline, and restores some resemblance of the age of gold. On the lowest estimate the Hindu king is a charismatic figure, divinely appointed, at the most he is a great divinity himself. For the Buddhist and

1. Ibid, p. 22.

2. Ibid, p. 22.

3. Ibid, p. 22.

4. Ibid, p. 14.

Jain, on the other hand, kingship is a necessary evil in an evil age, and the king is nothing but a mere human being.¹

'Protection and 'Pleasing the people' are stressed by all the theorists of ancient India, as constituting the basis of kingly functions, says Basham. However it was the protection and preservation of Varnashrama Dharma, which formed the primary duty of king. 'First and foremost, the king's protective function should be exercised in respect of the divine social order, the varnashrama dharma, thereby giving the optimum chance of spiritual progress to as many individuals as possible.'² The duty of satisfying his subjects, according to Basham, "included the enforcement of law and order, the speedy and just settlement of disputes, fair taxation, the care of the indigent, the provision of utilities such as irrigation works, the distribution of largesse on festive occasions, and the patronage of temples, religious institutions, learned men and poets."³ This being the analysis of Basham, it is not surprising when he pronounces 'The fundamental principle of the 'Welfare state' may perhaps be found in embryo in such well known early Indian principles as the dictum that one of the king's main duties is to please his people, or the doctrine that he should ensure that nobody through out his kingdom suffers from hunger or oppression.'⁴

1. Ibid, p. 15.

2. Ibid, p. 16.

3. Ibid., p. 18.

4. Spellman, J.W. – Political Theory of Ancient India, p. 223.

J.W. Spellman, like any other indologist, tried to understand the ancient Indian Polity by taking into account its relation with religion, morality, varnashrama and also the geography of India. Not undermining the influence of religion on socio-polity of Anc. India he nevertheless cautions against giving it more importance than warranted. 'It would be a serious error to think', says spellman, that the kings and the people of ancient India were full of sanctimonious piety. Thinking only of the other worlds or states to which they would go after death. Kama or sensual pleasures and artha or worldly wealth were just as much a part of four goals of life as was dharma, righteous conduct, and moksha, final release or salvation.¹ Spellman readily accepts that concepts like state, its constituent parts and their respective functions; Duties and obligations of king and people; existence of a well developed administrative paraphernalia, were present in the polity and political thought of ancient India. But at the same time he also pointed out that the rosy picture of ancient India given by Nationalists was often contrary to historical reality. Thus, spellman says, 'Sovereignty did not reside with people,'² nor was 'kingship elective.'³

Like Basham, Spellman too thinks that kingship in ancient India originated as a safeguard against anarchy. This concept of

1. Spellman, J.W.- Political Theory of Ancient India, p. 223.

2. Ibid, p. 233.

3. Ibid, p p. 50-51.

human nature – society in its natural state is anarchy – according to Spellman, existed in other countries as well, but it was in India that it reached its highest development and became the central theme of political philosophy.¹ Kingship was considered as a regrettable, but very necessary institution.² However, Basham and Spellman do not concur on the point of rights and duties of king and their subjects. Basham opines that both the king and the subjects had certain rights but spellman thinks. 'In India, no such (as in west) clear cut doctrine of rights existed. The issues was one of responsibility and obligation.'³ Countering the views that the people had the right of protection or that the king had the 'right' to tax, Spellman comments 'The king had an obligation to protect and the people to pay taxes.'⁴

The question, whether the ancient Indian Political theorists had an idea of state or not has been a matter of dispute among the modern scholars. Basham thinks that State as an abstract entity did not exist in the writings of ancient India, but scholars like spellman suggest that the concept of State was well developed . Enumerating the seven elements or angas, which professedly constituted a state, spellman pronounces that 'the word rajya most nearly corresponds in English to the word 'State'. It is therefore our opinion that in ancient India not only was there the

1. Ibid, p. 5.

2. Ibid, p. 6.

3. Ibid, p. 7.

4. Ibid, p. 7.

political reality of the state, there was also a theoretical concept through which this reality was discussed in the abstract.¹ Similarly to the question, whether the state (if it existed) possessed the qualities of an organism, Spellman answers in affirmation. The organic theory of the state was therefore certainly known and held in ancient India.² In fact he explains the concept of world-ruler with the help of the organic theory of the state. Just as the body could not have two heads, so too, the world must be unified under one sovereign authority.³ Spellman though concedes the notion of state being prevalent in ancient India, denies that an advanced concept of nationhood had developed. 'In Ancient India, there was very little if any manifestation of anything that we might call nationalism. There was, it is true, a feeling of great affection for Bharatvarsha or Aryavarta But this feeling was a religious or cultural one and not one stemming from political causes.'⁴

Brahma - Kshatra relation in other words the relation between the spiritual and temporal power, is a vexed issue, and different historians have tried to solve it in their own way. Spellman does not deny the importance of Purohit in the body polity of Ancient India, but he does not support Hopkins, either, when the latter pronounces that king was subservient to Brahma.

1. Ibid, p. 133.

2. Ibid, p. 9.

3. Ibid, p. 170.

4. Ibid, p. 133.

'That the Brahmans had certain class privileges there is no doubt, but it is equally clear that they were under the political jurisdiction of the king. Lacking a coherent organisation, they were unable to set up any unified administrative group such as the ecclesiastical courts of European Middle Ages.'¹

Ratnins forming part of the Rajsuya sacrifice have belied the historians from an unanimous interpretation with regards to its meaning and importance. Some like Altekar and Majumdar assert that ratnins were a council of the king whereas other thought they were the representatives of different class of the society. Spellman however gives another view point, 'These ratines who were called the king's jewels, were treasures not so much in a political sense as they were in the religious or magical sense.'² They were essential for the accurate performance of the mock cattle raid, the throwing of the dice, the distribution of gifts; to look at them as conservation officers of a kind, rather than as an advisory council, seems to be more in accord with the evidence.'³

Spellman in addition, also tried to understand terms like Danda, Dharma, Divinity of kings, Mandala theory which had profound impact on the body polity of ancient India. Like matsyanyaya, the concept of danda was another important political idea produced by ancient India. It (Danda) was an abstract idea

1. Ibid, p. 76.

2. Ibid, p. 71.

3. Ibid,p. 72.

symbolising cosmic force and was, like so many other Hindu ideas, personified and given concrete forms.¹ Dharma he continues, 'is, the moral standard against which all else maybe judged.'² Divinity of king was present in ancient India but it did not make the king infallible.³ Like Basham spellman too thinks that 'Divinity of the king was by no means exclusive'.⁴ Brahman were always a favoured class and the ancient Indian literature galore with miraculous and superhuman feats of Brahmanas. But spellman thinks, that only Brahmans who acted in accordance with dharma were to have favoured consideration.⁵ The judiciary system of ancient India has been praised in no uncertain terms. 'In monarchies such as those of ancient India, without parliaments.... The marvel is not that the law was sometimes arbitrary, unjust, and whimsical, it is that the ancient Indian law givers and kings should have placed so much stress on an human dharma and sought, in theory at any rate, to provide fairness to all.'⁶

J. Gonda emphasises upon the religious aspect of kingship in ancient India. The Divinity and sacredness were invariably associated with the office of a king. A close affinity between religion and polity was not unique to India alone, 'but sacred

1. Ibid, p. 108.

2. Ibid, p. 98

3. Ibid, p. 40.

4. Ibid, p. 41.

5. Ibid, p. 41.

6. Ibid, p. 130.

nature of kingship assumed, in India a much more definite character than in the Pre-historic Indo-European antiquity.¹ Gonda also underlined the primitive features of ancient Indian Polity especially in the age of vedas and Brahmanas. Many rituals and ceremonies along with innumerable taboos associated with the kingship are interpreted by Gonda to be pregnant with symbolism and mysticism which are the hallmark of a primitive society. Many terminologies related with the polity of ancient India have been etymologically analysed so that ideology underlying such concepts becomes manifest.

Enunciating the idea of kingship Gonda endeavours to prevent modern notions distorting the understanding of the real essence of such institution. An ancient king did not direct the public affairs of a state or nations in any modern western sense of the term; he did not rule by promulgating never-ending streams of laws and rules on all subjects possible.² Countering the view points that the kingship was neither enlightened autocracy nor a constitutional monarchy, Gonda observes. 'He (king) was a herdsman, a protector, a lord i.e authority itself.'³ 'His were the beneficent functions of owning controlling, disciplining, defending, pleasing and helping the weak. One of his first

1. Gonda, J.G. – Ancient Indian Kingship from the religious point of view. P. 143.

2. Ibid, pp. 68-69.

3. Ibid, p. 69.

responsibilities was to see that the people were fed, not by making 'social laws' but by bringing fertility to the fields, by producing the life giving water by giving to the country the normal seasons. He was to administer justice; not by elaborating voluminous codes of law but by upholding the traditions.'¹

Different characteristics associated with kingship, according to Gonda, can be inferred by the etymology of different epithets used for a king. The idea of protecting the people... appears from such well known synonyms as *nripa* (protector of men), *Bhupa* and *Bhupala* (protector or guardian of the earth), *goptr.* (herdsman).² Similarly *natha* another term used for monarch, signifies the patron, protector of the helpless.³

Gonda also highlights the primitive characteristics of ancient Indian society and kingship. The chief feature of primitive societies which presupposes that its welfare and prosperity depend on harmony with the invisible powers, was present in ancient India. The Indians, says Gonda, 'Shared with many other peoples the conviction that their rulers possessed supernatural powers. One of the most important characteristics of the Indian king is his role as a mediator. He is an intermediary between the powers of nature and society.'⁴ Similarly display of wealth by the

1. Ibid, p. 69.

2. Ibid, p. 2.

3. Ibid, p. 4.

4. Ibid, p. 6.

chief so common in primitive societies was also present in ancient India. Wealth not only shows the vigour and prosperity of the king but also enhances his honour and prestige. In this context Gonda observes 'Already at the earliest period of Indian history the royal position involved splendour and display of wealth.'¹ 'Epithets as danapati (lord of liberality), bhoja (the liberal or bountiful) are used for the king.'² Depicting his majesty and power. Various taboos and totems are also an indispensable part of primitive society. Gonda cites many examples from ancient India which illustrate such taboos. King may not stand on the earth with bare feet (given in sathapatha Brahman), was a restraint no doubt intended to prevent his mystic power or special virtue from flowing away.'³

The symbolism and mysticism associated with rituals forming consecration or enhancement of power of the king, is sought to be deciphered by likes of Gonda. These rituals imparted kings with magico religious power which provided stability and justification to his office. Thus Ratnins were no administrative officials at all, but an especially constituted group of persons endowed with sacral duties.⁴ Elaborating upon the mysticism of vajapeya sacrifice, Gonda says, 'A characteristic of this sacrifice is that the number seventeen is predominant. This number is

1. Ibid, p. 14.

2. Ibid, p. 14.

3. Ibid, p. 21.

4. Ibid, p. 44.

mystically connected with Prajapati, the Lord of creation.¹ The chariot race, like the cow raid and a dice play not only prove the superior valour and physical prowess of the ruler; it is also a magical device, to achieve the defeat of his adversary.²

Gonda also points towards a very interesting fact that the ancient Indians were deeply impressed by the broadness and extensiveness of heaven and earth'.³ The idea of broadness, wideness or extensiveness is of great importance in their religion. Significantly enough the great opponent of the god Indra, was called Vritra – the 'coverer, restrainer, he who obstructs.'⁴ Such a concept, however was confined to religious field only. The idea of room, wideness or spatial extensiveness sometimes crops up in those passages which deal with sovereignty.⁵ Similar concept of wideness and kingship is also illustrated the literal meaning of various terms used for a king. Original meaning of the root raj, says Gonda was 'the idea of stretching (out), stretching oneself out.'⁶ Vibhu a word for king also means for extending, all pervading, omnipresent, plentiful, able, effective.⁷ Similarly the epithets as dirghabahu or mahabahu may be held to point to the ruler's ability to protect a large number of people by his physical strength and to

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1. Ibid., p. 84.
 2. Ibid, p. 85.
 3. Ibid, p. 100.
 4. Ibid,
 5. Ibid, p. 108.
 6. Ibid, p. 122.
 7. Ibid, p. 105.

enforce his sway over an extensive territory.¹ Gonda traces the idea of broadness in the horse sacrifice as well; The idea of expansion in connection with royal power is not foreign to the 'symbolism' of the Asvamedha either.²

The relation between Brahman and Kshatriya has proved to be a vexed issue for the historians. Pronouncing the superior status of Brahman vis-à-vis king, Gonda observes, 'Indian kingship is peculiar in that the monarch as a rule belongs to the second class, the brahmin constituting the first.'³ He further comments, "in ancient Indian religion we should never lose sight of the fact that all beings, gods as well as men, are confronted with the eternal and universal....by which they are determined, of which they are manifestations. Even the devas are subject to karman and dharma is to be observed by all beings. It is therefore, from the Indian point of view quite reasonable that the king's power is checked by the brahmans who are brahman incarnate."⁴ Even though Divinity was omnipresent in ancient Indian society religion and polity, 'being a Deva king is not infallible.'⁵ Regarding the origin of kingship Gonda thinks, 'that apart from such individual instances as the divine descent of the epic heroes and so on – no theories were enunciated concerning a divine origin of kings or dynasties.'⁶

1. Ibid, p. 109.

2. Ibid, p. 110.

3. Ibid, p. 62.

4. Ibid, p. 67.

5. Ibid, p. 33.

6. Ibid, p. 133.

Charles Drekmeier indulges mainly in a sociological interpretation of ancient Indian polity and political thought values and traditions prevalent in ancient society coupled with the division of social life into hierarchies, had their effect on the polity of ancient India. He also endeavours to trace the psychological basis of social behaviour. Any analysis of the dynamics of social systems must concern itself with the motivational processes of human beings.¹ The methodology adopted by max Weber to understand society and history, which recognises, the importance of ethic and religion beside economic factors in the formation of classes and the emphasis on relation between thought and action; seems to be the guiding principle for Drekmeier. The primitive aspect of early Indian society which is most profoundly reflected through symbolism and mysticism of rituals and sacrifices, is also underlined.

In the socio-political life of ancient India, sacrifices played a very important role. Sociological relevance of such sacrifices is enunciated by Drekmeier in his following comments. Tribal religious beliefs were symbolised in the sacrifice, the manifest function of which was to sustain universe, to win the favour of the gods and their support for the various objectives of the tribe. It also provided a mechanism of adjustment to social and psychological

1. Drekmeier, Charles, Kingship and community in Early India . pp. 282-283.

strains, and though vedic man understood sacrifice as a propitiation of the gods and the ceremonial reproduction of the cosmic order, he was in fact reading the social structure of the tribal community into his belief about the sky gods he worshiped. The sacrifice thus served to maintain the pattern of social relationships under the guise of preserving the universe.¹

Tribal and primitive aspect of society and its influence on polity in ancient India especially in vedic period has been studied in detail by Drekmeier. Concepts of sacred and profane; non distinction of Nature and Society i.e. cosmic order forming a model for social life; preponderance of magic; among others, which are chief characteristics of a tribal community are reflected through vedic sacrifices. The veda must therefore be understood in essentially symbolic terms. The world is conceived as being at once profane and sacred.... The sacrifice, which represents a correspondence between the sacred and profane orders, attempts a ritual reproduction of the divine will.² Pottatch – a socio economic institution prevalent in American Indian, which involves distribution of gifts and an expectation of its return –according to Drekmeier, is considered an important step in the process of individualisation, in the assertion of personal power;³ This institution of potlatch can be traced in vedic sacrifices as well. The

1. Ibid, p. 284.

2. Ibid, pp. 14-15.

3. Ibid, p. 47.

expensive and awesome vedic rituals lack some of the features of the potlatch; but in the conspicuous consumption of wealth and the central role of the gift, it seems to be a related institution.¹ He further adds, 'The game of dice in such ceremonies as the ratnahavimsa, may be a symbolic remnant of the ancient potlatch,'² Many primitive societies have in addition to clan or tribe, an organisation of confraternity – a smaller association which is ordered hierarchically and which allows an alternative to traditional ascriptive forms of authority.³ It is conceivable that the sabha once performed the function of confraternity.⁴

Traditional socio-cultural concepts, forming the essence of Hindu society; and their relation with the political philosophy, has also been underlined by Drekmeier . The static and non differentiating characteristics of Ancient Indian Political philosophy was the result of overwhelming Dharma. 'The preservation of Dharma was the major obligation of the state. This is why Hindu political theory was essentially static, and this is also why any treatment of the subject will seem to flow into economics, sociology, epistemology, and metaphysics . Religious and political ideas are often juxtaposed.'⁵ Non existence of civil rights and tendency to maintain status quo have been explained

1 . Ibid, p. 47.

2 . Ibid, p. 47.

3 . Ibid, p. 52.

4 . Ibid, p. 54.

5 . Ibid, p. 9.

by Drekeimer by taking into account such terms as Dharma, karma, salvation. Differentiating as it does between the inherent worth of individuals, dharma precludes that equality in civil rights essential to a spirit of citizen Participation, and tends to exalt the status quo.¹ Rights in this world were as nothing when measured against the requirements of eternal salvation, and freedom which was conceived as the escape from the cycle of birth, death, and rebirth, could be attained only through the faithful discharge of duties.² Another important theme of Indian Political speculation is 'the relationship between Brahman legitimation and Kshatriya domination'.³ Barring some exceptions according to Drekeimer, 'Brahman is almost always seen as superior to the Kshatriya.'...⁴ In spite of the dominance of spirit over mundane, he adds, there was no theocracy.⁵ Comparing Danda and Dharma, Drekeimer suggests that latter was superior, 'Dharma is end, Danda the means.'⁶

Similar to Gonda and Drekeimer, J.C. – Heesterman tries to decipher the Ancient Indian Polity by unravelling the symbolism and mysticism associated with various rituals and ceremonies. But unlike Drekeimer who concentrated mainly on sociological

¹ . Ibid, p. 9.

² . Ibid, p. 298.

³ . Ibid, p. 6.

⁴ . Ibid, p. 32.

⁵ . Ibid, pp. 299-300.

⁶ . Ibid, p. 10.

aspect of sacrifices, Heesterman gave more credence to the ideal and magical part of rituals. Establishment of harmony between the cosmic and human life and constant regeneration of nature's fertility power seem to be the basic idea behind vedic sacrifices. Thus according to Heesterman Rajsuya seems to have been originally a yearly repeated rite of cosmic regeneration and birth.¹ Similarly he contends that inclusion of royal consorts in the Ratnahavimsi ceremony was related to the idea of marriage and rebirth.²

J.D.M. Derrett and Robert Lingat were amongst the foremost Indologists who have studied the concept of law as was prevalent in early India. Derrett speculates on the nature of Hindus mainly to understand the ancient Indian society and polity. The great tolerance and adjustment to novel environment which, says Derrett, are the hallmark of Indian culture, might have some relation to his concept of Hinduism. Emphasising upon the sociological aspect of religion it is observed 'to be a Hindu is merely to be a recognised social group.'³ Law according to Derrett was neither never immutable',⁴ nor could dharma disallow 'positive legislation'⁵ Robert Lingat opposed Derrett's view that king must

1. Heesterman, J.C. – The Ancient Indian Royal Conservation – p. 7.

2. Ibid, p. 55.

3. Derrett, J.D.M. – Religion Law and the State in India, p. 60.

4. Ibid, p. 152.

5. Derrett, J.D.M.- in A.L. Basham ed. A Cultural history of India, p. 124.

be understood to be de facto qualified to legislate without being bound by the precepts of the sastras.¹ We can hardly speak of “legislation”, says Lingat, a propos of the sanction which the king gave to the compacts or conventions.²

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1. Lingat, Robert – Classical law of India – p. 227.
 2. Ibid, pp. 227-228.

III

Western scholars like Drekmeier think that 'changes in modes of production and technology' exerted less influence on political thoughts than did religious ideas'¹ But the marxist historians take economic structure to be the foundation on which the superstructure of ideology was raised. Religion, and other allied concepts like Dharma, Karma, Salvation had, according to these scholars, 'intrumental value.' Theory of Karma, Punarjanma and Moksha provided a patent justification for the domination of class-caste combination of brahmins and Kshatriyas.² Earlier R.S. Sharma criticising the undue emphasis on tradition and mysticism resorted to by European Indologists, pointed out, 'The inference of Social and economic processes from archaeological and athropological sources is equally important. Rituals and traditons may have their roots in reality but are usually manipulated by dominant social groups to serve their interests.'³

D.D. Kosambi was perhaps the first historian who gave a systematic account of ancient Indian culture and society on the basis of the mode of production and its relation to socio-political ideas and institutions. 'An aggregate of human beings constitutes

1 . Drekmeier, Charles – Kingship and Community on Early India p. 2.

2 . Sardesai, S.C – Progress and Conservation in Ancient India – p. 88.

3 . Sharma, R.S. – Aspects of Political ideas and institutions in Anc. India – P. xxviii.

a society when and only when, the people are in some way interrelated. The essential relation is not kinship, but much wider, namely, that developed through production and mutual exchange of commodities.¹ The most important question, says Kosambi, is not who was king, nor whether the given region had a king, but whether its people used a plough, light or heavy, at the time.² Dynastic changes of importance, vast religious upheavals, are generally indicative of powerful changes in the productive basis, hence must be studied as such.³

Kosambi though followed the view points of Marx, was always conscious of the fact that, 'Marx speaks of all Mankind where we deal only with a fraction.'⁴ The adoption of Marx's thesis does not mean blind repetition of all his conclusions at all times.⁵ Some of the ideas held by Max regarding ancient India were criticised and reformulated to take into account its peculiarities contesting Marx's statement that, 'Indian society has no history at all what we call history is but the history of successive intruders who founded their empires on the unchanging (village) society,' Kosambi observes 'The greatest periods of Indian history, the Mauryan, the satavahana, Gupta owed nothing to intruders; they

1. Kosambi, D.D. – An introduction to the study of Indian history – pp. Xii – xiii.

2. Ibid, p. 13.

3. Ibid, p. 13.

4. Ibid, p. 9.

5. Ibid, p. 10.

mark precisely the formation and spread of the basic village society, or the development of new centres."¹ Similarly the Asiatic mode of production which is based on the thesis that village communities which formed the backbone of ancient Indian society, were isolated, antarchic, and unchanging, was thought to reflect only. Partial picture countering the notion of village self sufficiency Koshambi thinks that 'Most villages produces neither metals nor salts, two essentials that had mostly to be obtained by exchange, hence imply some commodity production,"²

Religion and caste system were often used by the dominant section to exploit the masses . Religion is often used to convince the working class that they must give up the surplus, lest supernatural forces destroy them by mysterious agencies.³ With the emergence of class society, priest and warrior castes united to repress and exploit the Aryan Peasant (vaisya) and non Aryan helot (Sudra). Sacrifices though ostensibly performed for success in war were also intended to subdue the lower classes. 'A far more powerful secondary purpose (of sacrifices) appeared namely repression of the inner struggle of new classes. The vaishya (settler, husbandman) and the Sudras (helots) are to be exploited for the advantage of the ruling warrior caste, the Kshatriyas with the brahmin priest's help."⁴

1 . Ibid, p. 12.

2 . Ibid, p. 11.

3 . Ibid, p.

4 . Ibid, p. 100.

The lead given by D.D. Kosambi was followed by scholars like R.S. Sharma who endeavoured to study the ancient Indian polity and political thought 'in the light of historical materialism'.¹ Economic activities in the form of production and distribution influenced the formation of society and state. The great socio-political changes that occurred in 6th, B.C. leading to urbanisation, growth of trade and consequently the formation of state is explained by R.S. Sharma to be the result of 'surplus production' which was possible because of the use of iron implements and better technique of agriculture for example, the paddy transplantation.² The notion of 'class' which is the integral part of Marxism was present in ancient India. The priests and warriors who had general authority over the labour power symbolised by the collectivity of Sudras and claimed taxes and tithes from peasantry (vaishyas), says sharma, 'formed a kind of the upper class.'³ He also accepts the importance of ideology in a particular society, but adds 'to equate ideology with the mode of production and treat it as an autonomous factor would be over rating its importance.'⁴

1 . Sharma, R.S. – Aspects of political ideas and inst. In Anc. India. P. xxxi.

2 . Sharma, R.S. – Material culture and social formation, in Anc. India. Pp. 120-127.

3 . Ibid, p. xvi,

4 . Sharma, R.S.- Aspects of political ideas and institutions in Anc. India-p. 156.

In his comprehensive work, *Aspects of political ideas and institutions in Ancient India*, R.S. Sharma not only relies on the economic aspect but also takes the help of Anthropology. Similar to Gonda, Heesterman and Drekmeier, Sharma thinks that vedic society betrays many features of a primitive society. The rituals and sacrifices which are ostensibly religious in purpose, also reflect the socio-political reality of the time. He however points that too much should not be read in the symbolism of vedic sacrifices. Concepts like Karma, salvation, varnashrama and the four purusarthas, which are taken by the European Indologists as the basic ideas, which shaped the political institutions of Ancient India, are interpreted somewhat differently by R.S. Sharma. 'Ideas do shape the course of history, but there is nothing to show that the fourfold aims of life or purusarthas determined the development of society. Such ideas hardly appear in vedic times.... They assume importance only in Gupta and post Gupta times, especially in Puranas. Initially only artha, dharma and kama appears, and can be connected with the institutions of the family, property and Varna.'¹ The allusions where king is called 'dharma pravartaka' it refers to the varna based social order in which the brahmanas and kshatriyas either lived respectively on the gifts and taxes collected from the peasants (mainly vaishyas) or on Sudra labour.² The

1. Ibid. p. xxix.

2. Ibid, p. xxvii

decay of dharma does not mean fatal losses in welfare and happiness as Gonda assumes, but mixing of the varnas and upsetting of the society structured in favour of the two higher orders.¹

Criticising the theory of oriental Despotism as a 'garb for colonial aggression'. Sharma thinks that the idea of State was clearly known to the political theories of ancient India.' Although plato and Aristotle speculate on the origin of the state, they never define it as sharply and clearly as is the case with early Indian thinkers. In this sense kautilya furnishes us as full and complete a definition of the state as was possible in ancient times.'² Modern constituents of the State such as sovereignty, government, territory and population are covered respectively by the elements of swami, amatya and Janapada in the saptanga theory of the State.³ This definition is strikingly similar to the definition of the State set forth by Engels as amatyas, danda and Kosa correspond to Public officials, public power and taxes respectively.⁴ Thus at least in three respects says Sharma there is remarkable similarity between the Kautilyan and the Marxist conception of the State.⁵ It is also observed that the theory of state especially those

1 . Ibid, p. xxvii.

2 . Ibid., p. 38

3 . Ibid, p. 38.

4 . Ibid. pp. 39-40.

5 . Ibid, p. 39.

propounded by Manu, Shantiparva and Kamandaka express the close interrelation of the organs (of state) in clear terms and resemble in many respects to modern organic theory of state.¹ This resemblance can be explained on the ground that in the interests of the ruling class in all ages attempts have been made to underline the unity of the state.²

About the origin of state Sharma feels 'that in the opinion of early thinkers and law givers property, family and varna played the primary and vital role in the rise of the state in ancient India.'³ It is held that traces of contract theory about the origin of state are found in anc. Political sources both Brahmanic and Buddhist. Not conforming to the more prevalent view point, that it was only Buddhist sources (mainly Digha Nikaya) which provided a theory of contract between King and the ruled, Sharma points out 'the germs of this theory are found in Brahmanas, and its developed forms in the Shanti Parva'.⁴ It is further suggested that the contract theory of the origin of the state should be regarded as an original contribution of ancient Indian thinkers to political thought for even the Greek thinkers plato and Aristotle ... did not think in terms of contract between the king and the people.'⁵

1. Ibid, pp. 47-48.

2. Ibid, p. 48.

3. Ibid. p. 61.

4. Ibid, p. 75.

5. Ibid, p. 75.

Various vedic institutions like Sabha Samiti, vidatha, Gana etc. have drawn the attention of many scholars. Most of the Nationalists think that they were popular assemblies having constitutional function to perform. These assemblies are often cited as examples to show the republican and democratic aspect of political life in ancient India. Most of the functions alluded to these institutions were political like election of king or acting as deliberative body for legislation and adjudication. R.S. Sharma however emphasises the tribal character of these early bodies and since primitive institutions hardly admit of differentiation of function many of these vedic institutions performed deliberative, distributive, military, religious and social functions. Vidatha was the earliest folk assembly of the Indo-Aryans attended by both men and women, performing all kinds of functions economic military, religious and social.¹ Citing reasons for considering it more primitive than other vedic institutions, Sharma writes; distributive functions or common consumption of the produces, participation of women in its deliberations, absence of class distinctions.² Compared to Vidhata, political functions of Sabha and Samiti , especially for the latter was more pronounced.³ Moreover it is also underlined by Sharma that the character of these assemblies did not remain the same throughout the Vedic period. 'It (Sabha) may

1 . Ibid. , p. 103.

2 . Ibid, pp. 102-103.

3 . Ibid, pp. 108-113.

have been a tribal, popular body at some stage in the beginning, but it became an aristocratic non-tribal body later. However the Samiti retained its popular character even in later Vedic times.¹

Vedic gana was according to Sharma primarily a 'tribal republic'.² Like other primitive institutions, it probably combined in itself the military, distributive, religious and social activities of early man. 'But the republics of the Post-Vedic period were territorial and socially stratified, which emerged primarily as a 'reaction against the pattern of life as evolved in the later Vedic period.'³ On the social plane the new movement sought to do away with the growing class and sex distinctions ... on the political plane it wanted to do away with the hereditary kingship or chieftdom based on brahmanic ideology and denial of all rights to the masses of the people.⁴ Likewise the character of Parisad did not remain constant in Ancient India, Early Parisad was a tribal military assembly; towards the close of later vedic period it tended to become partly an academy and partly a royal council dominated by the priests; and in Pre-Mauryan period as depicted in Early Brahmanic law books, the parisad took on the character of a body of legal experts.⁵

1. Ibid, p. 117.

2. Ibid, p. 128.

3. Ibid, p. 130.

4. Ibid, pp. 130-131

5. Ibid, pp. 138-140.

In his study R.S. Sharma contends that various Vedic and Post Vedic sacrifices and rituals can be used to reconstruct the polity of the same period. In his view Ratnahavimsi ceremony was the most important ritual (for political reconstruction) of Post vedic period. Ratnahavimsi ceremony was the product of a developed political social and economic organisation in which tribal and matriarchal elements were being submerged by class, territorial and patriarchal elements.¹ Ratnins show the beginnings of bureaucracy, the most developed form of which is to be found in the Arthasastra of Kautilay.² Unlike Heesterman who contends that the names of the ratnins do not provide us with any clue to the actual organisation of the government and points out that Royal consorts, Governmental dignitaries and aritsans are incoherently mixed up, R.S. Sharma thinks' at the early stage, when life had not been so much compartmentalised and purely governmental functions were not differentiated from other functions, there is nothing incongruous about the lumping together of several functionaries'.³ Rituals were also employed to secure the superiority of Raja vis-à-vis ordinary kinsmen and also from his rival clansman. The cow raid' ⁴ as R.S. Sharma thinks helped to establish the superiority of Raja (Central chief) over

1 . Ibid, p. 158.

2 . Ibid, p. 156.

3 . Ibid, pp. 152-153.

4 . Ibid, p. 172.

numerous dispersed similar clan chief and 'Asvamedha'¹ secures the obedience of Vis (peasant) to ruling chief (ksattra).

R.S.Sharma also delineates the relation of caste and Religion with the polity of ancient India on the basis of many instances which restrict the right to bear arms to the Kshatriyas and regard Brahmanas as most suitable to become officials, councillors and judges, whereas vaishyas and sudras were compelled to pay taxes, Sharma concludes that 'Brahmanas and Kshatriyas constituted the ruling class and the vaishyas and Sudras formed the ruled class.'² Religion though played an important role was intended to strengthen the monarchical system. The Kautilyan state upholds the brahmanical mode of life in so far as it is in consonance with its main objective, the varnashrama dharma, but discards the religious practices which stand in the way of its expansion.³ Kautilyan state, in view of Sharma is comparatively tolerant, but not Secular.⁴ He could not completely disentangle the state from the thralldom of religion.⁵

Romila Thapar, like Kosambi and Sharma gives importance to economic activities in shaping the course of human evolution. Economic factors because it is so closely associated at a primary

1 . Ibid, p. 174.

2 . Ibid, p. 250.

3 . Ibid, p. 264.

4 . Ibid, p. 265.

5 . Ibid.,p.266.

level with the sheer physical facts of livelihood, can modify the form of society.¹ She, however, also underlines the significance of Anthropological researches and archaeological findings in reconstructing the past. It is one of her concerns that, 'the institutions of the past have on occasion, been invested with qualities, which are required by the institutions of the present alone, thereby undermining the Validity of historical research.'² The context of an historical event, says Thapar is as important as the event itself, since the latter emerges from the former.³

In her study of Ashoka and Dharma, Thapar takes into account the then prevailing socio-political realities. Contesting the view that Ashoka stood in opposition to his Age, Romila Thapar says 'He (Ashoka) was in many ways representative of his time. His greatest claim to recognition lies in the fact that he understood his age, and in terms of the Indian background, realised the requirements it demanded.'⁴ The principle of Dharma, for which Ashoka is so much eulogised and often regarded as missionary, should according to Thapar be considered in the context of the political system of the time.⁵ Continuing further she says 'India in the third century B.C. was not a national unit, yet politically it was governed by a centralised monarchy and the administrative

1. Thapar Romila – Ashoka and the Decline of Mauryas-p. 55.

2. Ibid, p. 213.

3. Ibid,

4. Ibid, p. 1.

5. Ibid, p. 215.

system hinged on centralized control. If the political system was to succeed it was inevitable that there would have to be some national factor in the multi-cultural society of the time. Dharma was certainly a way of life acceptable at any level of cultural development and its adoption might well have acted as a cementing force throughout the country. In this the efforts of Akbar, eighteen centuries later may well be compared with Ashoka,¹ Similarly other measures of Ashoka though aimed at the welfare of the society also served to strengthen the centralised state under Ashoka. Thus Romila Thapar points out, paternal attitudes introduces the possibilities of despotism,² and 'a centralised administration is always more efficient if social welfare at levels is attended to.'³

In her 'lineage to state', Romila Thapar puts forward the view that formation of state in middle of the first millenium B.C. was the result of stratification which accompanied the transformation of a lineage based community into a Varna divided agricultural society. The fact that State could emerge only in the middle Ganga valley is explained by thaper by pronouncing the peculiarities of ecology and religio-cultural ethos of Eastern Uttar Pradesh and Bihar. Different theories on the origin of government in Vedic and Buddhist sources are, as Romila Thapar thinks, about the origin of kingship. She does not support the view that kingship and state

1. Ibid, p.

2. Ibid, p. 147.

3. Ibid, p. 157.

are interchangeable terms. Kingship is but one stage in the formation of state. 'Kingship in itself does not constitute the arrival of the state for the latter required a number of other features of which kingship was only one aspect. Kingship seems to have been viewed as an intermediary position reflecting the tendency towards the increasing power of the chief in the lineage system as well as the emergence of pivotal office integrating the requirements of a state.'¹

Romila Thapar analyses the Brahmanic and Buddhist sources to reconstruct the historical reality of the ancient period. She distinguishes the historical tradition from the myth and takes recourse to modern methodology. Decline of virtues from the era of perfection, concept of *matsnyaya*, association of Kingship with gods, are associated with the origin of kingship, which is discussed in Mahabharat. The concept of king, being made up of the parts of eight lokapalas, was intended to raise the protection as a function of king to divine descent.² However Thapar adds, it was not that the king was of divine descent but that the office of the king is sacred and divinity enters when the Raja is consecrated.³ The disappearance of the vedas' according to Thapar reflects the new ideas current in the middle Ganga valley and the falling off in the performance of ritual sacrifices.⁴ In the version of the story which mentions Nisada and Prthis, a distinction is sought to be

1. Ibid, p. 116.

2. Ibid, p. 119.

3. Ibid,

4. Ibid. pp. 117-118.

made between the food gathering tribes of the forest and the agriculturists where the left side is associated with the former and the right with the latter.¹ Contrary to Brahmanic traditions in Buddhist sources ownership of the cultivated land is the crux of the issue which leads to the necessity of the government. Authority is vested in a person who is selected by others and no appeal is made to any divine agency. Trying to reconstruct the socio-polity of the age through these traditions. Thapar observes 'In these and other similar theories of explanation of the origins of government the main aim is to prevent the fission of society or to indicate that a segmenting off is no longer a solution to the problems of tension within a society and that the tensions arose because of individual demands on property and persons.'² The meaning and mutual relation of the terms. Bali and Bhaga, have been variously interpreted by different historians. According to Thapar Bali was related to the area of land cultivated whereas Bhaga remained a share of the produce from land.³ Tracing the historicity of Bali, Thapar opines, 'Originally a voluntary offering of wealth, it may have retained its association with wealth and when wealth can be linked with land, bali could have been used to mean a tax on land.'⁴ Thus Bali would be paid by those who cultivated an area of land they owned or alternatively it could also have been a

1 . Ibid, pp. 119-120.

2 . Ibid, p. 121.

3 . Ibid, p. 124.

4 . Ibid,

generalised tax on the area of land cultivated by each cultivator.¹ This, thinks Thapar, would have led to the confusion in the mind of Megasthenese, who states that land belongs to the king because a tax is paid on it by those who cultivate it.² The payment of a land tax does not presuppose state ownership of land since it is in the nature of a tax on property.³

Danda, as interpreted by Thapar, was not restricted to coercion alone but would appear to represent all forms of authority. The staff was also (beside physical force) the symbol of renouncer and the ascetic, the man whose authority may not have been tangible but was nevertheless effective enough to frighten even the rulers.⁴ The ascetic who derived his authority by removing himself from society, could not only claim sanctions which were extra-societal, but could also become the source of a counter-culture.⁵ Hence the fact that he was regarded with awe by those in political authority.⁶

Dharma according to Thapar, with its emphasis on caste as a theory of stratification became one of the mechanisms by which the state was made acceptable in areas where no state had existed earlier.⁷ The concession given to customary laws, in the views of

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1. Ibid.
 2. Ibid.
 3. Ibid.
 4. Ibid, p. 126.
 5. Ibid.
 6. Ibid.
 7. Ibid, p. 126-127.

Thapar, served the purpose of preventing confrontations and fission since the emphasis was on consensus.¹ Customary laws which would carry with it the use of ordeals, curse and analogues means as dispensers of law as well as the strength of supernatural sanctions... militated against the over-despotic rule.²

The importance of itihasa, Purana, the ancient Indian historical tradition represents the transition from lineage to state.³ Such a tradition therefore as Thapar thinks becomes important to trace the evolution of society in ancient India. Compiled by the suta and the Magadha it grew out of the enlogies on heroes victorious in raids and the generous donors of wealth to the bards.⁴ This historical tradition includes the hero-lauds and narratives of vedic literature, in the form of narasamsis, gathas, dana stutis and akhyanas, the two epics Ramayan and Mahabharat, and the Puranas.⁵ Central to these early sections of the itihasa purana tradition was the geneological data. This was crucial in a society where kinship links determined status, land rights, wealth, marriage relations and the preservation of tribal identity.⁶

1. Ibid, p. 127.

2. Ibid,

3. Ibid, p. 130.

4. Ibid,

5. Ibid, pp. 131-132.

6. Ibid, p. 131.

Earlier sections of both epics depicts a society which is closer in spirit to the lineage system;¹ and the later additions would date to a period when the lineage system had declined and the state had emerged. The transition from one system to another is also demonstrated from a careful analysis of the Vam sanucharita (geneological) tradition contained in major Puranas², 'as well. From these geneological lists attempt to calculate chronology is fertile, as chronological exactitude is not their function.³ However, the data about lineage forms, geographical distribution and to some extent political perspective can be derived from Puranas.⁴ Commenting on why information was put together in this particular way, Thapar, observes 'The Puranas were composed in the Gupta period.... This was a period of considerable historical change in northern India and such the Purana represents a looking back on the past to construct an image of the past, of providing the past with a framework and the same time preparing for the past to be used as a legal charter for contemporary and successor political systems. The vamsanucharita section therefore becomes a book of origins to be used by those seeking political legitimacy.'⁵

1 . Ibid, p. 132.

2 . Ibid, p. 135.

3 . Ibid,

4 . Ibid,

5 . Ibid, pp. 135-136.

CHAPTER – VI

INTERPRETATION OF LAW AND LEGAL LIFE, STATE

FORMATION AND FEUDALISM : A REVIEW

Historiography in the post independence era expanded its horizon. Studies on ancient Indian polity were no more confined to the nature and aim of state and other allied topics. Law, which was a favourite subject for the European Indologists, underwent newer interpretations and indepth analysis. Scholars like Lingat and Derrett examined the relation between Dharma and Law, and also the influence of custom on law in great details. If nationalists like Banerjea Dikshitar and Kane pointed out many positive aspects of ancient Indian concept of law, Lingat and Derrett also underlined that Law as understood by the theorists in early India was not immutable but underwent modifications and reflected the changes in socio-economic environs.

‘State formation’ and ‘Feudalism’ are two such topics, related to polity of ancient India, which have received the attention of modern historians in no uncertain terms. What were the different factors which facilitated the formation of state ?, Evokes a great deal of enthusiasm among the historians. Many theories like that of ‘conquest’ and ‘stratification’, are put forward to explain the emergence of state. Scholars like R.S. Sharma and Romila Thapar,

however, also underline the importance of changes in the mode of production in the formation of state. The existence or not of feudalism is debated by historians like no other topic. If scholars like R. S. Sharma and Yadav support the emergence and development of feudalism in early medieval period there are others like Sircar and Mukhia who challenge the notion that the socio-economic condition of early medieval India is reflected by the term feudalism.

CONCEPT OF 'LAW-DHARMA'

Execution of Law is often defined as the most important duty of modern State. Nature of Law and its relation to society and religion, even though studied by Nationalists, mainly constituted a part of their general speculation on the polity of ancient India. Formation of an Independent Indian State having a legislature empowered to enact laws was altogether a new phenomenon. Had this legislature the requisite authority to amend the rules of conduct, considered by majority of the population to be eternal and unchangeable or not?, became a vexed problem. These nuances could be laid to rest, should it be proved that the law in ancient India were not immutable and the prevailing custom and force of *Rajasasana* had sufficient authority to amend the laws in accordance with the need of the hour. Such a situation provided a fertile ground for the wholesome study of law in its historical context. Some scholars, more importantly western Indologists like Robert Lingat and J.D.M. Derrett endeavoured to understand the traditional Indian concept of Law in its totality.

The definition of law given by Aubry and Rau 'Law is the totality of precepts or rules of conduct to the observances of which it is permitted to constrain a person by exterior or physical coercion;¹' draws our attention to the nature of such an external

1. Quoted in Robert Lingat's – The classical law of India – p. xii.

authority. Was it the fact, as K.V.R. Ailyangar puts it 'In the Indian view all conduct rests on a suprasensible basis'¹ or the rules could survive on their own as pointed out by Derrett, 'the rules themselves could and in fact did persist by virtue of their own merit and not merely by reason of a superstitious sanction attaching to their source'² Similarly the relation between the Law and custom and usage was also examined by different scholars. But the most important question is concerned with the relation between 'Law and 'Dharma', Are the two terms, Dharma and Law (as conceived by the ancient India) one and the same or law is but a part of all encompassing Dharma. Robert Lingat tries to answer these queries when he observes. "In building up their law the Hindus have not taken as their starting point that element which has served in the west as a foundation for a specific discipline, namely the coercive element, which characterises a legal rule and distinguishes it from other rules which also control human activity. They have derived it from a more general notion which exceeds the domain of law in many respects without actually comprehending it entirely: duty... They relied on religious concepts peculiar to the Hindu world, and they taught people the rules of conduct which they ought to observe by reason of their condition in society – and amongst these rules the rules of law are to be found. The word dharma which is translated here 'duty' in

1 . Quoted in Derrett, J.D.M. Religion Law and State, p. 101.

2 . Derrett, J.D.M. Religion Law and State, p. 102.

effect expresses conformity with what Hindus regard as the natural order of things, and this explains its association with law.'¹

Thus any discussion on the concept of law in ancient India necessarily involves an analysis of the Dharma as a precondition. Both the Nationalist historians and the western Indologists have attempted to comprehend the exact meaning of the term Dharma. It is an accepted truth that there is no English word which corresponds to the idea of Dharma. This may be, possibly because a large number of socio-religious activities of ancient Indians were subsumed under Dharma. Such a view is more clearly underlined by Spellman when he observes. 'This word (Dharma) has a number of connotations and most of them are of an ethical nature. Dharma means virtue, right action, the law of nature, accordance with what is proper, universal truth, a code of customs or traditions righteousness, the eternal, unchanging order, law and variations of all these. It has religious, political and social implications. It is the moral standard against which all else may be judged.'²

1. Lingat Robert – Classical Law of India – p. xii.

2. Spellman, J.W. – Political Theory of Ancient India. – p. 98.

I

Nationalist historians in their zeal to establish the fact that ancient India did witness the rule of Law often emphasised that there were a set of rules which were regarded sacred and even the king could not muster courage to tamper or amend them. K.V.R.Aiyangar thus observes 'The evidence of history does not disclose any exercise of the alleged regal power of independent legislation.'¹ Similarly regarding the power of king he says 'He (king) cannot make a new law. The royal edict is merely declaratory, and not innovative.'² A similar view point is put forward by other scholars like Dikshitar P.N. Banerjee as well. Dikshitas too thinks that 'king was not above the law but under it. If he swerved from the accepted law he was liable to punishment like any other citizen of the state.'³ Commenting upon the omnipotence of law in ancient India and its relation to society, P.N. Banerjee says. 'If the law be understood in the limited sense of a command of the sovereign authority, there was no law at all. And yet there were rules of conduct which were binding on all, and violation of which were visited with punishments of some kind or the other. Law (Dharma), as understood in the early times was the entire body of rules by which society was believed to be held together, and which was supposed to conduce to the well being of the people.'⁴

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1. Quoted in J.D.M. Derrett's Religion law and the State. P. 76.
 2. Ibid,
 3. Dikshitar, V.R.R. Hindu Administrative institutions – p. 216.
 4. Banerjee, P.N., Public Administration in Ancient India – p. 131.

Existence of positive laws and even the notion of law depicting the will of the community, were also supported by some scholars; P.N.Banerjee distinguishes between two classes of laws (i) moral and religious rules and (ii) Positive laws. Sanction for the first kind was religious or social, and that for the second political.¹ Commenting further he says in the course of time a body of rules composing secular laws (vyavahara) was evolved which soon acquired as great an authority as the sacred law. 'Dikshitar is one such scholar who talks of the presence of democratic elements in the polity of ancient India. The concept of law was in conformity to such tradition. The sanction of law has the common will as the basis and so long this idea of the common will underlies these legal principles, the law operates satisfactorily to all, whether you call it law, morality or by any other name. This common will is nothing but the expression of healthy public opinion which is a feature of ancient Indian democracy.'²

Countering the notion of unchanging East was often one of the guiding principles for the nationalists. It was generally put forward that laws in ancient India though based primarily on the authority of canons and thus considered to be sacred and eternal were also influenced by the accepted customs of the time. Even the written laws of sastras and smritis were also interpreted to

1. Ibid, pp. 131-132.

2. Dikshitar, V.R.R. op.cit. p. 219.

suit the exigencies of the society. One such method employed by the writers and commentators of smritis was the theory of Kali varjya. According to this theory certain acts (often immoral from later standards) which were allowed in earlier yugas were forbidden in the age of kali because the people of the kali age have lost much lustre and thus could not sustain the effects of such acts. Theory of Kali varjyas, thinks Kane, furnishes, 'preemptory' argument against the still widespread prejudice of the "unchanging east".¹ This theory of Kalivarjya is also a preemptory argument against the idea that dharma is immutable and unchanging.²

U.N. Ghoshal who considers the dharma of smritis to 'be the whole scheme of duties incumbent on the units of the social system',³ gives an exhaustive list of methods through which the meaning and implication of Dharma could be adjusted over time. According to Ghoshal, "the further development of the theory of dharma in the Smritis and allied works involves the combination of dogmatic with rational principles. The former principle is expressed in such doctrines as the infallibility of the Vedas and the invalidity of usages at variance with the canon. The latter principle finds expression in such forms as the doctrine of duties of the social units in Times of distress, that of enlightened opinion

1 . Quoted in Robert Lingat's. The classical law of India p. 194.

2 . Ibid,

3 . Ghoshal U.N. A History of Indian Political ideas. P. 529.

as the criterion of Dharma,...the doctrine of distinctive standards and authorities of dharma in the successive Age cycles, that of proportionate decline in the quantum of dharma accompanied with the equally proportionate facility of its acquisition during those cycles because of the growing physical and moral decay of men and lastly, the doctrine of forbidden practices of the Kali Age.’¹

The voluminous work of PV Kane ‘History of Dharmasastra’, is perhaps the most comprehensive study of the concept of law, as prevalent in ancient India. He makes a critical assessment of various Dharma smritis and endeavours to explain the contradictions found there in by taking into account the developments of modern historiography. Thus he opines that the general emphasise on the process of continuous decline was mainly a ploy invented by the thinkers of ancient India so that people may acquiesce to the king’s commands more easily.² Kane also indulges in a comparative study of ancient Indian legal traditions with its counterparts in Europe. Being influenced by the general tenets of Nationalist school of historiography he more than once observes that ancient Indian law were not immutable, stagnant and dogmatic. He was of the firm belief that legal system was in consonance with the socio economic realities of ancient

¹ . Ibid, pp. 529-530.

² . Kane, P.V.-History of Dharmasastras – vol. III. Pp. 243-244.

India, which was flexible and followed the principles of historical evolution. In the course of his study, Kane often cites many positive features of ancient Indian law system. He observes that orderly system (enunciated in the Dharma sastras), regarding the appointment of judges, the meticulous care given in the smritis for the court proceeding and elaborate analysis of law of evidence, can be compared most favourably with any system of judicial procedure prevalent anywhere in the west upto the 18th century A.D.¹

In volume III of 'History of Dharmasastra', Kane discusses in detail Rajadharma, vyavahara and Sadachara. Under the section vyavahara, the general features of smritis, Eighteen heads of vyavaharapada were examined. More often than not Kane while analysing the civil and criminal laws of ancient India compares them with modern concepts of jurisprudence. He begins his study by observing that authors of smritis believed that there was a golden age or era of perfect virtue. Later ages saw the advent of sinful promptings, that therefore regulations of life by the learned and the king came into vogue.² These diametrically opposite views – state of perfection in divine past and anarchy – of the past contained in the same works – such as Manu and Mahabharat – probably owe their origin to the desire of the writers to make the

1 . Ibid, p. 410.

2 . Ibid, p. 243.

common people submit to the absolute rule of kings. Almost all works even from the Rig veda downwards believe in the progressive deterioration of religion and morals. A state of anarchy is visualised in a few works only for the purpose of glorifying the great usefulness of the institution of kingship.¹ Dharma as Kane puts it took the place of the very ancient conception of rita, which in the Rig veda denotes the superior transcendental law or the cosmic order by which the universe and even the gods are governed and which is intimately connected with sacrifice.²

The concept of Vyavahara, developed in the smritis was the bed rock of ancient Indian legal system. Modern historians often differ in analysing the different connotations of the word. Vyavahara, is used in several senses in the Sutras and smritis; one meaning of it is transaction or dealing, another is a dispute, a law suit and still another is legal capacity to enter into transactions.³ Kane however takes vyavahara to mean 'law suit or dispute in a court' and legal procedure.⁴ The Eighteen vyavaharapadas include both civil and criminal law. Kane observes, 'The enumeration of vyavaharapada is very ancient and authoritative, but there is hardly any scientific principle of classification underlying them.'⁵ Commenting further he says 'though in this way a distinction

1 . Ibid, p. 244.

2 . Ibid, pp. 244-245.

3 . Ibid, p. 245.

4 . Ibid, p. 246.

5 . Ibid, p. 258.

was made between civil and criminal disputes among the 18 titles of law, it appears that the set of rules and procedure in both were the same, the same courts tried both kinds of disputes and not as in modern times (when civil disputes are tried in one class of courts and criminal complaints in another and when the procedure also in both differs a great deal.). There were not two sets of courts in ancient India as there were in England before the fusion of law and Equity.¹

Vyavahara is catuspada – having four feet viz dharma, vyavahara, caritra, and rajasasana.² It is often castigated by the European scholars that ancient India did not witness the independent growth of jurisprudence. Not conforming to such critical remarks and comparing the various classifications of modern jurisprudence given by Dr. E. Jenks, Kane makes following observation, ‘Ancient system cannot be expected to present such a classification. Ancient smritis were content to divide the vyavaharapada into civil and criminal. They more or less deal with most of the subjects brought out in modern classifications but not in an orderly manner. They also divide laws into substantive and adjective or procedural. The vyavaharapadas correspond to the former and the rules about procedure, the appointment of judges and the constitution, evidence and limitations are adjective law.’³ A somewhat similar realistic

1. Ibid, p. 259.

2. Ibid, p. 259.

3. Ibid, pp. 267-268.

approach is adopted by Kane when he talks about the presence or absence of torture in ancient India. Not aligning himself with Dikshitar when the latter pronounces that kautilya recommends no torture in any case; Kane says 'one need not feel apologetic if kautilya recommends torture in certain well defined cases. Torture by police and third degree methods are not unknown in the 20th century in the west or in India, though they are not expressly mentioned in any text book or Act as allowable.'¹

Kane also endeavours to answer the questions like, who was the ultimate head of justice?; was there jury system or not? If the ancient India knew about the profession of lawyers or not? And so on. Justice was to be primarily dispensed by the king; He was an original court as well as an appellate tribunal.² On the basis of those references in Smritis where the professionals are tried by the persons expert in the concerned profession, Kane observes, 'These quotations show that certain people could claim to be tried by their peers or at least by a jury, This jury system was resorted to for settling complicated questions of fact.'³ Regarding the existence or not of the institution of lawyers, Kane observes, 'As far as the smritis are concerned there is nothing to show that any class like modern counsel existed. This does not preclude the idea that persons well versed in law of the smritis and the procedure of the courts were appointed to represent a party and

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1. Ibid, p. 254.
 2. Ibid, p. 268.
 3. Ibid, p. 284.

place his case before the court.’¹ Similarly Kane underlines the fact that ‘In ancient times litigants had an easy time as they were not required to pay heavy court fees, the fees of the legal practioners and the expenses of witnesses and the delay of years.’² Ancient Hindu lawyers put down the tendency to usurp another’s property and placed many obstacles in the way the wrongful possessor.³

Sciences of penology and criminology though not pronounced in clear terms, but as Kane thinks, some of its basic tenets can be traced in the smritis. The ancient smriti writers were quite aware of the several purposeses served by punishments for crimes, though they do not develop a regular science of penology.⁴ Citing examples from the smritis, it is held by Kane that retaliatory, deterrent, preventive, reformatory or redemptiony aspects of punishments can be traced in ancient India.⁵ In modern times there are controversies among several schools of criminology. Some say every man has freedom to act criminally or not. On the other hand some hold that so called criminal acts are mostly due to biological physiological, pathological or sociological conditions i.e. they favour determinism. In this context Kane comments, ‘The ancient writers do not enter these speculations But when they said that regard

1 . Ibid, p. 288.

2 . Ibid, p. 295.

3 . Ibid, p. 325.

4 . Ibid, p. 388.

5 . Ibid, pp. 388-390.

must be paid to time and place and other considerations they were faintly conscious of or were groping towards the second ideas.¹

Like the criminal laws and theories of punishment, laws of contracts were also in a developed state in ancient India, so thinks Kane. The idea of the liability to pay off one's debts was developed in India in the most ancient times... from Rigveda itself.² Rules of Dvaigunya in Smritis and damdupat in modern times which state that maximum that can be recovered by a creditor from a debtor at one time can not be more than the double of the amount of money lent, acted as, according to Kane, a great check on the creditor's rapacity.³

No other title than the Dayabhaga, which deals with partition and inheritance is discussed in greater details in the Smritis. Two important schools dealing with the partition of property were Mitakshara and Dayabhaga. In Mitakshara school property right is established on the basis of birth and thus son can demand the partition even during his father's lifetime. But not so in Dayabhaga. Kane comments upon the basic tenets of these schools and also endeavours to understand the socio-economic factors which influenced their development. The liberal school of Dayabhaga was common (in Bengal) according to some scholars, mainly due to the maritime activity which resulted into newer ideas and the prevalence of Buddhism which had favourable

1. Ibid, p. 393.

2. Ibid, p. 414.

3. Ibid, pp. 422-424.

impact on the position of women and the Buddhist tantra brought about a law of property which was dissimilar to rules propounded by Brhamanical sages. Kane does not accept this hypothesis. He observes that western coasts of India were more exposed to maritime activities and the Buddhism was also favourable among many parts of central and western India.¹ It is also upheld by Kane that many schools of Mitakshara were more liberal compared to Dayabhaga,² Similarly he also counters the views of K.L. Sarkar that Mitakshara was influenced by Buddhism. Kane argues that, 'it appears that the evolution of the son's right to partition, of his equality with his father, or the absolute rights of a person to his self acquisitions, was a gradual indigenous growth and had nothing to do with Buddhistic thought. Buddhists had hardly any independent set of juristic ideas or works different from those of the Brahmanical jurists.'³

Different types of sons and their legal position regarding inheriting family property which find a prominent place in the smritis have been variously commented upon by the western scholars. Thus Jolly holds 'that twelve kinds of sonship which to some extent are based on illicit connection of mother are probably the most striking feature of Indian family law. The causes for this abnormal attachment to make issue is to be sought, according to Smritis in the offering of sacrifices to manes which depends upon

1. Ibid, p. 559.

2. Ibid,

3. Ibid,p. 640.

male issues: yet however, originally an economic motive was perhaps a more important factor – to get for the family as many powerful workers as possible.¹ Kane does not subscribe to what Jolly pronounces. He comments, ‘this so happens because Jolly thinks that all secondary sons are equally competent to confer spiritual benefit and that at one and the same time a man could have all or most of them as sons.’² Commenting further, Kane says ‘If the definitions of all the 12 or 13 kinds of sons are carefully analysed, it will be quite apparent that the long list is due to the ancient writers’ great penchant for divisions and subdivisions based upon very slight differences of circumstances.’³ Out of 13 kinds of sons, nine were entirely free from any taint of illicit connections.⁴ Gudhaja, Kanina and Sahodha-result of illicit relation but are regarded as sons, mainly because as explained by Kane ‘some one had to maintain them, to bring them up and be their guardian.’⁵ The general view point of the writers of smritis on the adultery is summed up by Kane through his following observations, ‘If the wife was guilty of adultery the husband had certain powers of correction over the wife, but if he chose to be complaisant, then the smritis did not compel him to disown or abandon the child. These very smritis (like Gautama, Vasistha, Narada) that are very harsh on women for adultery allow the gudhaja, Kanina and Sahodha to be secondary sons. So the only

1. Ibid, pp. 648-649.

2. Ibid,

3. Ibid, p. 649.

4. Ibid,

5. Ibid, p. 652.

way in which these two attitudes can be reconciled is by holding that when the husband condones moral lapses on the part of the woman whom he had accepted as his wife, the smritis provide for the maintenance, guardianship and succession of such offspring of illicit connection.’¹

Regarding the relationship between the adopted son and his natural family, Kane comments, ‘Severance from the natural family brought about by adoption is only partial and restricted to Pinda and riktha and connected matters and not complete as stated or assumed in some decided cases.’² Thus for adopted son sanskaras are not performed after his adoption he retains the gotra of his natural father and observes mourning for his natural father.³

All the smritis recognise that acara (customs) are along with veda and smriti the chief sources of law. The significance of acara is recognised by smriti mainly because it is ‘tangible and requires no effort to decide between conflicting views.’⁴ In the same vein Kane further observes, ‘The theory of the ancient writers was that the smritis were based on parts of veda which though formerly existent are not now extant or available, that similarly the practices of those whose who were learned in the vedas and were

1 . Ibid, p. 653.

2 . Ibid, p. 697.

3 . Ibid,

4 . Ibid, p. 857.

deemed to be *sistas* must be inferred to have been based on portions of *veda* not now available.¹

Generalising from the *smritis* and views of *purvamimāṃsa*, Kane lays down the requisites of valid customs as, 'they must be ancient, must not be opposed to *sruti* and *smriti*, must be such that they are regarded by respectable people as obligatory on them and such as are observed with that consciousness by the *sistas*, they must be strictly construed and cannot be availed of by others not within their purview and must not be immoral or severely condemned by popular sentiment.'²

Kane also points out that meaning and scope of *acara* was not static but changed from time to time and the general direction of such changes was towards accommodating more and more popular elements. He observes, 'The exact import of the word *acara* or (*sadacara*) has been shifting from age to age and among commentators. In the earliest days the *acara* to be followed was that observed or declared by learned *brahmanas* who were highly moral and selfless.... Gradually every usage that had no visible secular purpose came to be looked upon as binding and lastly the usages of the *sudras*, of *pratiloma* castes and even of heterodox sects became, enforceable by the king'.³ The fact that *Smritis* and digests prescribe even the usages of heretical sects because

1. Ibid, p. 826.

2. Ibid, p. 876.

3. Ibid, pp. 875-876

‘compared to western countries very great religious tolerance prevailed in ancient India.’¹

In case of conflict between Sruti, Smritis and acara, it was a general principle that the preceding one will replace the succeeding one. But Kane observes that ‘the conflict of Smritis among themselves presents much greater difficulties. From very ancient times authors of smritis differed greatly among themselves.’² However, one of the methods allowed to decide between conflicting dharmasastras was the use of reason. Such a system can be compared, thinks Kane, to the principle of *aequitas* applied by the Praetors in Rome to the rigid older legislation or the influence of Equity in English Law.³ When old rules become too narrow or are deemed to be not in harmony with the views of a changing or progressive society, it was thought to be the privilege of the king or the judge to adopt his practice to the existing state of society and not to decide a case by a too strict adherence to ancient dicta..⁴ Similarly in case of conflict between dharmasastra and arthasastra the former has more weight ‘because it has as its purposes the securing of unseen or spiritual results, while the rule of arthasastra has the accomplishment of a visible or worldly

1. Ibid, pp. 881-882.

2. Ibid, p. 866.

3. Ibid, p. 867.

4. Ibid, p. 868.

purpose as the goal. Therefore dharmasastra from a spiritual or ethical point of view is superior to arthasastra.’¹

Another method employed to overcome the conflict between the smritis was the theory of kalivarjya. This theory which was based on the principle that, many of the acts prescribed by Smritis were not valid in the age of Kali because the merit of the people has declined over the ages, can be employed, says Kane, “as an effective answers to those who trot the theory of the ‘unchanging east’”.² Commenting further he observes, ‘the chapter on Kalivarjya shows unmistakably how the most authoritative dicta of the veda and of ancient sages and law givers were set aside and held to be of no binding authority because they ran counter to prevailing notions and furnishes a powerful weapons in the hands of those who want to introduce reforms in the incidents of marriage, inheritance and other matters touching modern Hindu society. One can further see how some practices still persist inspite of the prohibitions in the Kalivarijya texts, viz marriages with one's uncle's daughter, sannyasa, agnihogtra and even Srauta animal sacrifices (rarely).’³

1 . Ibid, p. 868.

2 . Ibid, p. 967.

3 . Ibid, p.

II

Western Indologists while studying the concept of law in ancient India, were often tempted to compare the Indian notion of law with its European counterpart. Contrasting the two they most of the time concluded that the law in the west were based on the general will of the community while in ancient India it was superhuman or divine which was the source of law. Spellman thus observes 'Law was not thought to be the result of common consent or popular enactment in ancient India. It was, in the main, a divine writ administered by the king with the help of select individuals'.¹ Similarly Robert Lingat points out that 'Western juridical systems are based on the concept of legality. ...the law is understood to express the will of all... what is just is that which conforms to law i.e. legal'² Continuing further lingat observes 'The classical legal system of India substitutes the notion of authority for that of legality. The precepts of smriti are an authority... Everyone knows that no one can escape from that law ... But it has no constraining power.'³ Charles Drekmeier too echoes the same view point when he says, 'Law is ultimately God given and removed from popular interpretation and appeal. The Priests were its custodians....Dharma stood above the king, and his failure to preserve it, must accordingly have disastrous consequences.'⁴

1 . Spellman, J.W. op.cit. p. 17.

2 . Lingat Robert – Op.cit. p. 257.

3 . Ibid, p. 258.

4 . Drekmeier, Charles, Kingship and community in Early India – p. 10.

Even though law were supposedly divine, it was generally underlined by these western indologists that custom and usages had their impact on law and thus it (law) could not be taken to be eternal and unchanging. Derrett makes this remark 'There appears to have been no stage at which law was immutable, at which custom was not open to influence from jurists, or to modifications or even abrogation at the hands of the rulers'¹ Lingat and Derrett have studied the relation between law and custom in great detail.

Another important view point which finds its place in the writings of these indologists is that the dharma was Brahmanic in origin and the rules of conduct enunciated by the Sastras and Smritis pertains to maintain the inequality in society. In this regard Drekeimer thinks 'Differentiating as it does between the inherent worth of individuals, dharma precludes that equality in civil rights essential to a spirit of citizen participation, and tends to exalt the status quo.'² Brahmins were the moral guardians of society is brought to fore by Robert lingat as well. He observes 'The teaching of dharma proceeds from Brahmins who were extremely preoccupied with questions of purity and impurity, of guilt and

1. Derrett, J.D.M. – Religion Law and the State. P. 152.
2. Drekeimer ,C.- op.cit. p. 9.

expiation and with ritual observances and the regular practice of the same.¹

Robert Lingat in his classic work on the law of ancient India begins his study with the analysis of the nature of Dharma. Etymologically, Dharma, according to Lingat is what is firm and durable, what sustains and maintains, what hinders fainting and falling.² In the vedic age dharma signifies the eternal laws which maintain the world³ 'which were identified with the laws of the sacrifice.'⁴ Tracing the evolution of dharma Lingat says later on 'the concept of dharma is widened, it envelops the moral world as much as the physical and the norm of ritual becomes a norm of conduct.'⁵ The relation between law and the rules of conduct is clearly pronounced when he observes, 'This (dharma) is the totality of duties which bears upon the individual according to his status (Varna) and the stage of life (asrama) at which he stands, the totality of rules to which he must conform if he does not want to fall, if he is anxious about the hereafter.'⁶ Lingat further comments 'its foundation and its sanction are religious, but it is essentially social in the sense that... the individual who obeys its precepts performs a duty which is as much social as religious.'⁷

1. Lingat Robert – The classical law of India. P. 56.

2. Ibid, p. 3.

3. Ibid,

4. Ibid,

5. Ibid,

6. Ibid, p. 4.

7. Ibid.

Juridical importance of Dharma sutras is emphasised by Lingat in no unclear terms. The great mass of precepts and rules of social relationship which Lingat says has the appearance of something 'resembling legislation',¹ also reflect the (rudimentary) civil and criminal laws. If a great part of what we call personal legal status is found amongst the precepts of achara, the criminal law appears in turn, in large measure, in the theory of sins and penances.² It is true as Lingat comments, that penance, as distinguished from punishment, is voluntary, But we must not forget that the threat of exclusion from caste is an indirect means of constraint, often quite sufficiently efficacious to make the culprit perform the prescribed penances³. Penance is thus not simply expiatory. It is also deterrent.⁴ However Lingat adds that the system is imperfect and incomplete.⁵ Dharma Sastras deal with the same subject as the dharma sutras, but they, thinks Lingat, are 'more extensive work and they give much larger place to rules of a juridical character.'⁶ In the Dharma sastras, the rules intended to assist in the administration of justice are methodically classified, studied under a fixed number of heads. There we find a branch of the science of dharma which is tending to disengage

1 . Ibid, p. 28.

2 . Ibid, p. 63.

3 . Ibid,

4 . Ibid,

5 . Ibid, p. 64.

6 . Ibid, p. 73.

itself from the others, and to be envisaged as an autonomous discipline.¹ The commentaries and digests which according to Lingat were works of interpreters.² (analogous to jurisconsults of late Roman Empire) laid the foundation of juridical science in India. The law says lingat which was effectively in force during this long period (before British Period) was born of that technique and it is no exaggeration to say that it was only with that interpretation that a true juridical science began in India.³ In spite of their technique because of which interpreters often appear to be pure logicians, Lingat thinks they were the real organisers of Hindu law.⁴

Development of juridical law was not solely based on the written rules of Dharma sastra. Custom too played an important role. Lingat observes 'the rule of dharma did not become a juridical rule until it entered into behaviour and was accepted by the population as a customary rule.'⁵ Altekar thinks that at the period of dharma sutras the rules of dharma were founded upon custom, tradition or convention accepted by the public.⁶ But Lingat puts forward the view that not all but only those practice is elevated into a rule of dharma which is held to be such by those who know

1. Ibid,

2. Ibid, pp. 107-109.

3. Ibid, p. 143.

4. Ibid, p. 175.

5. Ibid, p. 202.

6. Quoted in Robert Lingat, classical law of India, p 178.

dharma, or because it is prescribed by the veda.¹ In order to be counted as a rule of dharma every custom must be not only immemorial but also free from all apparent worldly motive, interest, or utilitarian consideration.² Theory of Kali varjya which according to many scholars (mostly nationalists) is a proof that laws in Ancient India were not immutable, does admit of the influence of custom on dharma or in words of Lingat 'served to hallow changes that took place in opinion and manners'.³ But he also points out, 'The Kali varjya theory has only 'negative aspect. It merely explains and legitimises the disappearance of certain customs..... Transformation of society is marked rather by the appearance of new rules which not only abrogates the previous ones but substitute something in their stead. This creative function has undeniably been played in India by custom. If in certain limited domains the Kali varjya theory has allowed a Triumph of the resistance which custom offers to sacred tradition, it would be going too far to attribute to it the birth of new institutions.'⁴

Predominance of customary rule over the rules of Dharma has led many scholars like Nelson to pronounce that, smritis were purely literary and theoretical works. They had no contact with reality.... In fact the dharma sastra had nothing to do with law at

1 . Lingat Robert – op. Cit. P. 178.

2 . Ibid, p. 180.

3 . Ibid, p. 194.

4 . Ibid, p. 195.

all Hindu law was entirely customary.’¹ Not agreeing with such observations Lingat thinks that both customary and written laws had relevance. ‘The written law of the sastras and customary laws of the different groups of humanity thus existed side by side, equally respected though often in notable disagreement with each other. The former acted upon the latter and restricted its mobility, but the latter also acted upon the former through the medium of interpretation.’² Moreover Lingat also points out that in addition to its religious significance dharmic rule has some other tangible advantages over custom. Rule of dharma says Lingat is a written law and presents all the advantages of a written law : it is certain, it is immutable and it alone is the object of a study or rather of a science. Custom on the other hand is generally oral, essentially unfixed.³ It is further added, custom remains a particularity, a peculiarity. By contrast , the rule of dharma has an unlimited power of radiation. It offers as a model to every group. It fills the gaps in custom and tends to insinuate itself into the customary structure.⁴

J.D.M. Derrett studies the nature of law in Ancient India by taking into account its relation with regal power; religious beliefs; and customs prevailing. At the outset Derrett opposes the views of scholars like Aiyangar who think that king can not make law. The

1 . Quoted in – Ibid, p. 139.

2 . Ibid, pp. 141-142.

3 . Ibid, p. 204.

4 . Ibid,

capacity to legislate irrespective of Sastric authority undoubtedly existed and was utilised in countless precedents before the coming of the British.¹ It was at one time supposed that dharma could disallow positive legislation, but this view has no foundation. Decrees emanating from the palace are actually contemplated by the dharma sastra itself.² Without defining precisely, Derrett points at some of the important characteristics of dharma. Dharma had thus an isolated existence of its own. It was not adjustable to suit opinions and occasions.³ What was dharma was enunciated by the teachers not the books, a jealously and successfully guarded privilege.⁴ The state as such could not redefine in any context. A custom, properly established, or a genuine sasana might authorise a departure from dharma in a particular class of cases But then only if the court's attention was drawn to the former.⁵ Legislation by consent of the people did not exist.⁶ 'Derrett also draws attention to the fact that, even though all injunctions contained in the Smritis were binding, one or the other expedients were discovered for circumventing the written text. 'Interpretation, restriction to somewhat rare circumstances or flat abrogation, all these methods have been used from time immemorial to accommodate the written texts to the practical needs of the times. In addition the political authority has

1 . Derrett, J.D.M. – Religion law and State – p. 96.

2 . Derrett, J.D.M. – in A.L. Basham's ed. A cultural History of India – p. 134.

3 . Ibid, pp. 134-135.

4 . Ibid,

5 . Ibid.

6 . Ibid,

in fact supplemented and contradicted the dharma sastra where it seemed necessary in the public interest.¹

Modern scholars both Nationalists and Indologists believe that religion had an overbearing influence on the legal system of ancient India. Derrett too on his part does not deny such assumption, but proposes a somewhat modified version. Denying the common notion, Derrett says 'religion and law are by no means mix up' in the sastra² The orthodox practice of referring all disputes to Smritis (which on their part were based on the veda) was according to Derrett 'religious method since its fundamental assumption was that the vedic literature, supposedly once all embracing, was actually and perpetually trustworthy. The assumption was not founded on experience, and the willingness to proceed upon such hypothesis and to found a system of thought upon it was superstitious.'³ But the unorthodox like Buddhists who despite opposing the vedas followed the Hindu law. To explain such situations Derrett writes 'while the authority which justified the application of the law was admittedly religious, the rules could and infact did persist by virtue of their own merit and not merely by reason of a superstitious sanction attaching to their alleged source.'⁴

1 . Derrett, J.D.M.- Religion Law and the State - p. 96.

2 . Ibid, p. 96.

3 . Ibid, p. 102.

4 . Ibid. p.

Regarding the laws of marriage, adoption, Debt and succession Derrett observes that 'In every case the rule aims at an object which was objectively worthy of attainment, and the religious arguments which support it is of formal utility but of no substantial value.'¹ Dharmashastra's injunction of pre-puberty marriage of girls, was unquestioned religious; but according to Derrett had two fold object: firstly to encourage the giving in marriage of girls to families requiring potential mothers of sons to till the soil... and yet not able to offer substantial bride-price. And secondly to encourage fathers belonging to families which had adopted the custom of giving dowry with their daughters not to keep the latter at home as a means of saving expense.² The point is not religious but in the highest degree practical.³ Derrett gives similar practical explanations for other laws (civil) as well. Such a review of some of the chief instances of the alleged dependence of rules of Hindu law upon Hindu religion is intended, according to Derrett 'not to detract from the important part which religion has played in shaping the development of the sastra.... But to suggest that the actual relationship between religious doctrine and the rules of substantive law is not that of cause and effect, but rather that of form and substance.'⁴

1 . Ibid, p. 104.

2 . Ibid,p. 106.

3 . Ibid.

4 . Ibid, p.117.

Derrett also endeavoured to understand the relation between custom and law. He opposes the views that 'law in India was immutable, immemorial custom was transcendent law, and the custom and usages that bound the public were neither open to be influenced by the classical jurists nor amenable to alteration at the option of a political superior.'¹ Custom in order to be able to influence the law must be old, related to a social group or locality, followed as a matter of obligation, and not repudiated abandoned by the party relying upon it.² Regarding the relation between sastra and custom Derrett comments 'The sastra incorporated numerous customs, inevitably, since it was itself the fruit of customs systematized, compared and summarily set down'.³ But the Sastra, says Derrett, developed tendencies destroying the legal peculiarity of disapproved customary forms, recognizing a public desire for assimilation towards Brahmanical norms.⁴ Citing reasons for the failure of sastra to embrace all current customs, Derrett observes 'It was due partly to the impossibility of achieving this; it was also partly due to the missionary and didactic character of the sastra which,.... recognised the possibility of great divergence from its own prescriptions, and of great scope for

1. Ibid, p. 152.

2. Ibid, p. 157.

3. Ibid, p. 158.

4. Ibid, p. 160.

supplementation in particular chapters. It was thus free to concentrate on the religious and ritual aspects of dharma, where it was perfectly possible to be dogmatic without fear of violent economic and social upheavals.¹

1 . Ibid, p. 164.

STATE FORMATION

Only a very few historians have ventured into speculating upon the various factors and stages which led to the formation of state in ancient India. A popular paradigm in the west has been the notion of 'oriental Despotism' characterised by the absence of individual rights on cultivated land and the necessity of irrigation for agriculture. It was conjectured upon that the arid climate of the subcontinent, requires irrigation facilities, which on its part needs the help of a state for managerial functions linked with the organisation and supervision of the labour force on such a large scale. As the individual or group were unable to organise labour for construction of irrigation works it led to the formation of a state (often with despotic power) with elaborate bureaucracy which could coerce the people for such an enterprise. Such a theory does not take into account the relation between irrigation and ecology. Romila Thapar thinks if irrigation systems are seen as a causative factor then the ecological context has also to be discussed for, apart from managerial functions, those with access to agricultural land would tend to accumulate power.¹

Some other theories trying to reconstruct the state formation are related to 'conquest theory' or the 'internal stratification'; Former argues that once the indigenous people were

1. Thapar, Romila – from Lineage to state. P. 7.

overpowered by the Aryans, state came into existence as a natural corollary; latter theory puts forward the view that concentration of power into the hands of Brahman kshatriya combine led to the emergence of State. Such theories assume that the formation of state is a sudden process. They do not give credence to the view that transition from State-less society to state is not an event but a process. In the course of its evolution various stages are encountered with, which have their implications on other aspects of society as well. The emergence of a state marks a qualitative change in the history of a society since it arises out of and initiates a series of interrelated changes at many levels.¹

Nationalist historians have written profusely about the nature and functions of the state in ancient India, none but a few showed any proclivity towards explaining the process which could have resulted in the emergence of state. P.N. Banerjee² and A.S. Altekar³ underlined the importance of 'joint family' of the early Aryans as being primarily responsible for the origin of State. It was argued that the head of the partriarchal joint family of the early Aryans wielded power similar to that of a chief of the tribe and as the family expanded the senior member of the seniormost family was entrusted with the governmental functions. Somewhat similar view is also put forward by Drekmeier, when he observes 'The powerful patriarch of the joint family was undoubtedly the

1. Ibid, p. 4.

2. Banerjee, P.N. – Public administration in Anc. India – p. 34.

3. Altekar, A.S.- State and Government in Anc. India. P. 34

precursor of the king. Communities of families looked to the head of the senior joint family as the final authority in matters affecting their common welfare.¹ Such monolistic theories give a very simplistic view of the formation of state. It does not explain how any particular family is able to establish its authority over other members of the kin group. Nor does it explain the socio-economic milieu which led to the evolution of state. Similarly the concept of *matsnyaya* or 'Pathologic fear of anarchy'² as Spellman puts it, necessitating the emergence of state to safeguard the family and property, gives but a partial description of the picture.

State formation is a complex process. Any theory endeavouring to delineate the different phases of the evolution of state must necessarily depict the socio-economic realities under which a family or individual is able to claim a share in the produce of others. Different ideological and spiritual methods employed to safeguard the privileges by the ruling clan also need to be explained. Population growth and heterogeneity in its composition which lead to its stratification and a tendency towards centralised power should also be emphasised. Surplus production which is the foundation of a state compulsorily involves an analysis of the irrigation facilities, soil, cropping pattern and environment. Development of trade and commerce leading to urbanisation also

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1. Drekmeier C, - Kingship and Community in early India - p. 19.
 2. Spellman, J.W. - Political theory of ancient India - p. 4.

play important role in the formation of state and adequate attention must be paid to this aspect as well.

R.S. Sharma and Romila Thapar are among the few prominent scholars who studied the process of state formation in its totality. Both underline the importance of material factors manifested through the development in technique and pattern of agriculture in the origin of state. The transformation of tribal society – to which Romila Thapar prefers to call 'lineage society'¹ mainly because this term emphasises the centrality of lineage in all its aspect – of the Rigveda to the intermediate phase of later vedic age and finally culminating to the ascendancy of Magadha state possessing all the features of a full fledged state, has been delineated by these scholars in detail. It was the region of Magadha in middle ganga valley which witnessed the emergence of state in the middle of first millennium B.C.; this has been explained in terms of the peculiar ecological features of the region and a contrast with the ecology of western Ganga Valley is also put forward. Importance of socio-religious movements especially Buddhism for the rise of trade and consequent urbanisation and the ideological support it provided to the newly emergent state is not undermined in their studies.

1. Thapar Romila – From liveage to state p. 18.

Rig vedic people were semi Nomadic more in the Pastoral stage, and without the knowledge of iron did not practice effective plough cultivation.¹ Social organisation of the Rigvedic people had not transcended the tribal stage as kinship formed the basis of the social structure.² Given their material life and tribal structure, the Rig vedic people were not capable of developing any advanced political system which can be called state either in the ancient or the modern sense of the term.³ Even though the socio economic life of Rig veda age was not advanced to the extent that state could emerge, R.S. Sharma points out that some political life had already begun.. The vedic chief was termed Rajan,⁴ who fought for cows not for territory.⁵ But how could a family or individual occupy the office of Rajan is difficult to answer. Sharma suggests 'In the kin-based groups distinction appeared on the basis of age, skill and experience in procuring subsistence, ability to lead in wars and so on. Elders naturally had more experience in procuring sources of livelihood. If they combined it with skill, physical bravery, etc. they could become chiefs.'⁶

To underline the fact that Rig Vedic polity was tribal, characterised by the absence of the notion of territory and Rajan

1 . Sharma R.S. – Aspects of Political ideas and institutions in Ancient India. P. 350.

2 . Ibid, p. 350.

3 . Ibid,p. 352.

4 . Ibid,

5 . Ibid,

6 . Ibid, p. 179.

being the ruler of his tribe, Sharma takes the help of various epithets used for the chief. The term janasya gopa or gopati applied to the ruler, says Sharma 'literally mean cowherd, and came to be applied to the rajan because it was his duty to protect and look after the Jana or tribe.'¹ Similarly visapati was the head of a clan in Rig veda and not the lord of a settlement.² R.S. Sharma also points that rajan meaning to please the people has to be generally discarded for the vedic period.³ It (Rajan) is derived from an Indo-European stem, which means to proceed in a straight line for the selection of some site for the settlement or religious structure;⁴ this would suggest that the earliest Rig vedic rajan was a tribal leader who combined the functions of both priest and warlord.⁵

The nature of Rig Vedic kingship which was basically the same as chiefship,⁶ In the later vedic period evolved into what according to Sharma was a Proto-state.⁷ This period marks the firm beginnings of two important organs of the state, taxation system and administrative machinery.⁸ Territorial element of the kingship asserted itself. This according to R.S. Sharma is

1. Ibid, p. 186.

2. Ibid, p. 187.

3. Ibid, p. 185.

4. Ibid,

5. Ibid, p. 186.

6. Ibid, p. 352.

7. Ibid, p. 183.

8. Ibid, p. 361.

demonstrated not only by titles like Rastrapati or Rastrabhrita¹ for king but also by many rituals like Ratnahavimsi.²

The increase in power and prestige of the Rajanya, Sharma thinks might have been the result of inter tribal and intra tribal conflict of the age.³ The advent of iron may have added to the authority of the chiefs in this period, as they may have monopolised weapons made of it.⁴ Various types of conflict in vedic times also led to the rise of the varna system according to which the domination of the brahmanas and kshatriyas came to be recognised by the vaishyas and sudras; Ritualistic and ideological devices were developed to support the varna and political structure.⁵ The power of chief was immeasurably strengthened because of the tendency to make his position hereditary.⁶

Later vedic polity, though witnessed the growth of royal power and administrative structure could not see the emergence of state, because as Sharma puts it 'The surplus available from agriculture was still marginal. Agriculture carried with the wooden plough share in the upper Ganga plains could create a subsistence economy and not a large surplus producing economy.'⁷ This

1. Ibid, p. 189.

2. Ibid, p. 359.

3. Ibid, p. 177.

4. Ibid, p. 178.

5. Ibid, p. 177.

6. Ibid, p. 182.

7. Ibid, p. 183.

society stood at the threshold of the formation of the state which originated in settlements inhabited by agriculturists.¹

The rise of state, thinks Sharma is dependent upon the origin and growth of taxation system.² The material conditions, of the middle Ganga Valley in the age of Buddha, which favoured the increase in surplus production; according to Sharma, were the widespread use of iron for crafts and agriculture and the beginning of Paddy Transplantation.³ The two factors which made iron, a cheaper and convenient metal to use were its availability in large quantities and the technological skill to make it more carburised.⁴ With the large scale clearance of the extremely fertile middle Gangetic zone and the introduction of new methods of cultivation, the production per hectare may have doubled. The farmers were therefore in a position to support their households and dependents and able to pay taxes to the state.⁵

The availability of surplus, thinks Sharma was a necessary condition but not sufficient in itself; coercion had to be applied to get the surplus.⁶ The coercive aspect of later vedic times was later strengthened by the installation of collectors backed by

1 . Ibid, p. 183.

2 . Ibid,p. 198.

3 . Ibid, p. 201.

4 . Ibid,

5 . Ibid, pp. 201-202.

6 . Ibid.p. 229.

professional soldiers and priestly propaganda.¹ Apart from coercion deliberate efforts were made to win the consent and acceptability of the people, which was accomplished by Priestly class through 'myth making, inventing costly coronation ceremonies and divine attributes of the king.'²

Two other questions related with taxation and thus to state formation were how could a particular chiefly family become exclusive receivers of gifts and then of taxes? And how did redistribution of gifts become infrequent and their accumulation and consumption by fewer people for more important? The right to receive taxes exercised by the head of the State called monarch was a continuation of the practice to receive voluntary or ceremonial presents by the chief from his kinsmen.³ Sharma thinks that a chief who originally might have earned his leadership through his qualities of head and heart was perpetuated through the principles of hereditary and primogeniture.⁴ Reduction in the frequency of sacrifices and consequently the occasions for Redistribution was mainly due to the rise of Buddhism, which strongly opposed the slaughter of animals particularly that of cattle.⁵ Moreover the widespread acceptance of heredity⁶ also made these sacrifices redundant as the election of chiefs had become a thing of past. The

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1. Ibid,
 2. Ibid,p. 199.
 3. Ibid,p. 230.
 4. Ibid, pp. 230-231.
 5. Ibid,p. 232.
 6. Ibid,

infrequency of 'redistribution' in view of Sharma 'therefore rendered the flow of taxes to the chief more and more unilateral. The one way traffic immensely contributed to the resources of the ruler and materially helped state formation.'¹

II

Stratification, says Romila Thapar is a precondition to the emergence of the state since stratified groups become involved in the internal conflicts, require contracts for agreements or result in the evolution of a powerful elite.² Stratification of society is however to a large extent dependent upon the material condition of the society. The development of state in the middle Ganga Valley was mainly due to the replacement of 'lingage society' into a class divided society. Countering the view that division of lineage society into senior lineage and Junior lineage correspond to class, Romila Thapar thinks, the gradual evolution of private ownership of land and trend towards a commercial economy which released the gahapatis into the rank of land owners and traders, and Sudra Labour, moved from the householding system to a slow crystalising into artisans and tenurial peasants, may correspond to incipient classes.³ Thus the evolution of state from the lineage society of the vedic age is the record of those material, ecological and ideological factors which facilitated the replacement of a kin based society into a varna divided society. Romila Thapar similar to R.S.

1 . Ibid,

2 . Ibid,p. 232.

3 . Ibid p. 159

Sharma, underlines the importance of surplus production, but while the latter concentrates mainly on the taxation policy and tries to understand how Bali become obligatory and how could a particular family claim exclusive right over collection of taxes, the former delineates the stages through which stratification of society was transformed from the membership of a descent group to economic realities like ownership of land or performance of commercial activities.

Rig Vedic people settled in Punjab and Northern Rajasthan were essentially pastoralists.¹ The Raja or chief was the successful leader of a raid and by extension of a battle.² The booty thus acquired was distributed among the clan, but the distribution was already unequal.³ Changes in the river courses in Southern Punjab and Northern Rajasthan resulted in large scale migration toward upper Ganga Yamuna Doab. This upper Doab which was inhabited by settled agriculturists (asuras) was over powered by the immigrant pastoralists. 'The subordination of such groups to pastorally based power, says Thapar can be explained in terms of environmental circumscription' where in favourable areas cultivators prefer not to migrate when encroached upon by Pastoralists. The close proximity of herders to agriculturists may well have led to a symbiotic relationship of mutual dependence. Thus herders might graze their animals on the stubble of fields or

1. Ibid, p. 23.

2. Ibid, p.26.

3. Ibid,

be provided with fodder in return for protection. Such agriculturists would then accept the authority of herders without necessarily being conquered by them.¹

In the new area of upper Doab agriculture gradually became more important than cattle rearing and the stratification of society began to crystalise. The Rig vedic society which was divided into senior lineages of Rajanyas and the lesser junior or cadet lineage of vis.² Is further divided in later vedic period. Bifurcation of clans into those of higher status in Rigvedic period was based on ability of some to lead in cattle raids, to protect the clan, to establish new settlements.³ Rajanyas who were protectors and guardians received prestations from vis who were producers of both Pastoral and agricultural items.⁴ The distance between Ksatriya and vis increased with the former demanding more wealth from the latter as the redistribution expanded from Rajanyas to Priest class as their sacrificial fee.⁵ That the demands were met says, Thapar because Ksatriya led the settlement in new lands and protected these already in existence.⁶

The necessity of vis to increase their production to meet these new needs was met partly by new settlements and partly by

1. Ibid, p 27.

2. Ibid, p. 30.

3. Ibid, p. 31.

4. Ibid.

5. Ibid,pp. 31-32.

6. Ibid,p..32.

incorporating the services of those who were outside the lineage system and could be employed.¹ In this situation the Sudras and dasas would be the ones available for such work.² This ultimately brought about a 'householding economy' in which the extended family constituted the household and employed labour in a series of service relationships.³ The prestations made by the vis to the Kshatriyas and the labour provided by the Sudras was a sufficient basis for stratification although the maintenance of stratification did not require the machinery of state, the importance of lineage still being central and adequate for asserting authority.⁴

The lineage system as it developed in the western Ganga Valley, even though saw the emergence of a consciousness of territory, concentration of power into the hands of a Raja, and extension of agriculture resulted in a condition which according to Romila Thapar was arrested development of the state.⁵ An Explanation for why the state could not develop in the western Ganga region is given by Thapar in her following comments. 'The ecological niches of Rig vedic times did not develop into a state system since there was less confrontation and more of symbiosis. The resolution of conflict arising through stratification or

1. Ibid,p.33.

2. Ibid,

3. Ibid,

4. Ibid,pp. 33-34.

5. Ibid, p. 67.

demographic increase was not achieved by changing the system but by the migration of people which eased tension, with each migrating group reproducing the structure and organisation of the earlier society . The absence of geographical barriers encouraged this process. Land was available in the western Ganga Valley and was more easily settled than in the marshlands and monsoon forests of the middle Ganga Valley.¹

The eastward expansion of Aryans, which was primarily due to 'fission in lineage systems.'² Led to rice cultivation and urbanisation resulting into increased surplus and most important stratification which facilitated the formation of state. Romila Thapar observes 'In the middle Ganga Valley rice agriculture and irrigation were initially important but probably were not sufficient causes. However they sharpened stratification between those who owned the land and those who laboured on it. The imminence of internal tension made the possibility of control through a state system feasible. The recognizable state emerges when the stratification is much more widespread both socially and geographically. This takes the form of the transformation of the gahapati from a household head within a clan system to a landowner, and subsequent to this as a participant in trading

1 . Ibid, p. 137.

2 . Ibid,p. 77.

activities and in its counter poise in the transformation of the Sudra into the peasant cultivator and the artisan.”¹

The ecology of the new settlements in east especially of Bihar was characterised by high temperatures and humidity, wide flood plains (of North Bihar), River confluences, were ideal for rice cultivation . The yield of rice is higher per acre than wheat, rice cultivation would therefore have supported a larger number of people.² The clearing of monsoon forests and the necessity of irrigation called for not only more intensive labour, but the organisation of labour on lines of cooperative interaction.”³ Romila Thapar observes, where land, labour and irrigation was made available the production of surplus was feasible and this could support a larger population or intensify the social base of stratification.⁴ It is also pointed out that surplus in itself is not sufficient to state formation . The form of control is as important as the existence of the surplus, as is also the direction towards which it is channelled.⁵ It was mainly because of this difference between Gana sangha of middle Ganga Valley and monarchies, the state could evolve more easily under the monarchical form though the preconditions were similar.⁶

1 . Ibid, p. 157.

2 . Ibid, p. 73.

3 . Ibid, p. 76.

4 . Ibid.

5 . Ibid, p. 77.

6 . Ibid,

Development of trade and commerce and the subsequent urbanisation also contributed towards new social formation. New Gana Sanghas which were characterised by lesser importance of rituals did not require gahapatis to part with much wealth in the form of prestations and it was from these gahapatis that first trader evolved. The gahapatis, liberated from ritual prestations and lineage limitation, would be said to have emerged with a more clearly defined economic function. Local circuit of trade linking Grama (village) nigamas (local markets) and negara (towns) were extended into larger circuit through metals (like iron) and salt.¹ Coins further extended the reach of trade links.² Such changes as Thapar opines converted the 'gift of a lineage system into a commodity'³ and also weakened the role of ritual status, and to a lesser context, the monopoly of landownership as criteria of social rank.⁴

The inclusion of trade as one of the activities of the gahapati contributed to the growth of towns but also brought about a change in the rural economy.⁵ Where the rich gahapatis began to invest in commerce, the direct control of cultivation through the employment of labourers and slaves would tend to be reduced

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1. Ibid, p. 95.
 2. Ibid, p.102.
 3. Ibid.p. 187.
 4. Ibid,p.102.
 5. Ibid, p. 104.

gradually and the land would be given out on a tenancy basis.¹ This led to a peasant economy in which peasant worked the land neither as members of the kin group owning the land nor as employees of the owner but on a contractual basis.² In this system tax is a stipulated amount, generally an agreed upon share of the produce or the equivalent which has to be paid at regular intervals and is treated as contract.³ It is at this point that the peasant begins to crystallise as a social category quite distinct from the gahapati'.⁴ The epithet sudra, according to Thapar in relation to cultivators would seem to mean the peasants.⁵ Drawing the relation between the complex agrarian and commercial activities of the urban central with hierarchical social stratification Romila Thapar observes.⁶ 'The close control over land meant a clear distinction between indigenous populations and more recent settlers. Urbanisation not only demarcated the unland from the city but also introduced a number of necessary although marginal occupations which were believed to be polluting and could be carried out by uprooted groups.'⁷

The difference between middle Ganga Valley and the western Ganga Valley is also reflected, as Thapar points out, in the rise of

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1. Ibid,
 2. Ibid, P. 105.
 3. Ibid, p. 106.
 4. Ibid, p. 106.
 5. Ibid, p. 106.
 6. Ibid, p. 106.
 7. Ibid, p. 107.

new sects. These religious sects especially. Buddhism supported the new social formation and cooperated with the State. Buddhism supports the investment of economic surplus in commercial enterprises rather than its consumption in rituals.¹ The Patronage extended by gahapatis to the Buddhist sangha and vice versa helped indirectly in forging new links which were not based on Kinship.² Dana to Sangha which replaced ritual prestations, it went into the building of the Sangha which, apart from bestowing status to its donors, helped as an institution to provide a base and a network of contacts in new areas brought under the state system and across territorial boundaries.³ Romila Thapar also underlines the implicit function of dana. 'In order to obtain surplus to give to sangha it was necessary to lead a entire life and invest one's wealth with care and caution... In an indirect manner royal patronage to Buddhist monastries became a channel through which loyalty could support the same ideology which the commercial groups supported, thus lending status to both the commercial group (who otherwise had a low ritual status) and their religious ideology.'⁴

The process of State formation, under the Gana Sanghas of middle Ganga Valley, could reach only to the extent where it can

1. Ibid. p. 109.

2. Ibid,

3. Ibid,p.110.

4. Ibid.

be termed as an incipient state. Here inspite of surplus production and gradual transformation of lineage society so as to include non-kin members into the ambit of social system, Thapar observes, 'power still lay with the lineage as also the ownership of essential wealth and there is an absence of the collection of taxes by a superordinate agency. Such a system may be regarded as being a point in the process of state formation, an incipient state or what Fried has called a stratified society.'¹ She further comments 'where the distinction between the non-state and the state is presented not in absolute terms but along a continuum, these the gana sangha of the vrijiis would be a point along such a continuum, closer to state formation than, for example, the gana sangha system of the vrsnis of western India.'²

It was Magadha more than any other place in middle Ganga valley, which saw the emergence of state. The unique features of Magadha, which facilitated the rise of state are described by Romila Thapar through her following observation, 'Magadha was in many ways ideally suited for the founding of a state. The land was fertile and naturally irrigated. The gentle gradient towards the Ganga prevented the formation of Marshes and yet had the advantage of Son Valley catchment. The plain between the Ganga and vindhya outcrops was subject to temporary inundaton which could by a

1 . Ibid, p. 82.

2 . Ibid,

series of bandhas be converted into Short term reserves of water, making it possible to get a dry weather crop of rice in addition to the normal crop. The forests of the Rajmahal hills would have provided supplies of timber and elephants and to the south were located the major iron ore deposits of the region. Routes following the southern bank of the Ganga would pass through the magadha towards Anga or north to vaishali.¹

The views of Romila Thapar about the different stages of state formation can be summed up in following words. The transformation of kin based society into varna ordered society and corresponding changes in the method of cultivation initiated a process which culminated in the emergence of Magadha as a full fledged state. The lineage system of the Rigveda evolved into a combined lineage and householding economy during the later vedic period.² Under the house holding economy, the family exercises rights over the land which it cultivates and there are no tenants.³ The household of the vedic period consumed much of its produce and the excess was taken by those to whom it is politically subordinate in the form of gifts and prestations or in other words no regular payment of rent or tax is developed.⁴ Such a process created stratification and lessening of clan elements began Vis being replaced by Vaishya and Rajanya by Khastriya indicate the

1 . Ibid, p. 114.

2 . Ibid, p. 17.

3 . Ibid, p. 39.

4 . Ibid,

process of individual status becoming more apparent.¹ But the necessity of state was not felt at this stage because, lineage system was sufficient for asserting authority.

It was the eastward expansion of Aryas resulting in growth of population, greater area under cultivation, growth of irrigation and the increase in surplus production which facilitated the formation of state.² The household economy changed into peasant economy' and the substitution of gahapati for vaishya points final disintegration of the original vis i.e. lineage system is broken down. The peasant was a new phenomenon tied to paying taxes instead of giving tribute and permitted little participation in rituals.³ The development of the system of taxation is evident as the terms like bali, bhaga and Sulka which in Rig veda meant tribute, distribution and price (in the sense of value) became forms of taxes and dues in the later dharma sastra literature.⁴ Corresponding developments in trade and commerce, rise of heterodox sects mainly Buddhist which discouraged prestation and rituals, and the unique ecological position of magadha, combined to give rise to the state in the middle of the first millennium B.C. This is the gist of the hypothesis put forward by Romila Thapar. To explain the state formation in middle Ganga valley.

1 . Ibid, pp.39,55

2 . Ibid, pp. 73-76.

3 . Ibid, pp. 105-106.

4 . Ibid, p. 41.

The State once formed, according to Thapar did not remain a static entity. Even the evolved state was not frozen and in turn underwent substantial changes reflecting, wider historical change.¹ Concepts of 'primary state' and 'secondary state', in which latter is formed by former conquering non-states, is often put forward to explain the formation of newer states. But Thapar adds this may not be an automatic sequence. What is crucial is that the area conquered must be economically restructured and integrated into the conquering state.² In the case of Magadha, even after conquering a wide area including the Ganga valley there were substantial parts which were not integrated. It resembles, as Thapar puts it, to a system where the core region initiates conquest, but the control over peripheral areas remains flexible. The core region is termed by Thapar as 'Metropolitan state'.³ Such a state though organised on a unitary and centralised basis is basically a tax collecting institutions and does not make any effort, to extend those activities, in peripheral areas, which would generate revenue.⁴

In the past Gupta ege, however, the situation changed. The expansion in cultivable areas, mainly brought about through land grants, restructured the economy and consequently more areas

1 . Ibid, p. 159.

2 . Ibid,

3 . Ibid, p. 160.

4 . Ibid,

were included within the ambit of state. Such a phenomenon is underlined when Thapar observes 'restructuring of the economy seems more evident in the post Gupta period when there are many more nuclei of metropolitan states and when areas of land previously regarded as waste and isolated were brought under cultivation.'¹

B.D. Chattopadhyaya thinks that the period between 400-1200 A.D. was very crucial from the point of view of state formation.² These states were not the result of the collapse of a Pan Indian State like maurya or Gupta. Contrary to general assumption 'many of these local states were in fact integrated into the loosely structured Gupta empire.'³ Many of the states had emerged in the forested plateaus of central India and had tribal background. 'Most local states or royal lineages formed in this period, however, illustrate a process of change from below, in which monarchical genealogy was formed in a tribal region and from a tribal background'⁴ To illustrate such a process, Chattopadhyaya gives the examples of candellas of Bundelkhand (presumably from Gond back ground), chindaka – Naga lineage of Bastar, Puddukotai state of Tondaiman rulers who were of Kallar

1 . Ibid, p. 161.

2 . Chattopadhyaya, B.D. Romila Thapar ed. Recent perspective of Early Indian History- p.332.

3 . Ibid,

4 . Ibid, p. 333.

origin, and Coda Gangas of orissa.¹ The problem of legitimisation often led to the close alliance between the segment of tribe constituting royal genealogy and the Brahmanical ideology. The emergence of a wide range of ruling elites, conceptualised through the use of such terms as 'Ksatriyization' and 'Rajputisation', explains the close links between the Brahmanical form of monarchical ideology as well as with bhakti ideology and the new states.²

A perusal of the historiography of state formation depicts that different historians have tackled this problem in their own perspectives. Most of the earlier attempts at explaining the formation of state took it as a one time event and did not discuss the intricacies of different stages involved in the emergence of state. R.S. Sharma and Romila Thapar are two prominent scholars who take the view that the process of state formation was a long drawn one. Sharma observes that polity of Rig Veda corresponded to 'Chiefship', which in later vedic period got transformed into 'protostate' and finally culminated into 'State' in Magdaha region. Even though some rudiments of state had emerged in later vedic age it still remained a protostate mainly because the upper Ganga valley could create a subsistence economy only and the

1 . Ibid, pp. 333-334.

2 . Ibid, p. 334.

surplus from agriculture was still marginal.¹ Similarly Romila Thapar thinks that western Ganga region in vedic period could but result in an arrested development of state. It was the eastward migration and the stratification of society which got intensified in middle Ganga Valley mainly due to the emergence of a 'peasant economy'. But the 'Ganga Sangha' of the region were but a point in the continuum of process of state formation or 'incipient state'. It was Magadha with its unique ecology which was ideally suited for the emergence of state.²

1 . Sharma, R.S. op.cit. p. 183.

2 . Thapar Romila – op.cit. p. 114.

FEUDALISM

The term Feudalism defies any universal characterisation. Even though it is associated with different stages of historical development, it is mainly applied, as R.S. Sharma puts it, 'to society in Europe from the 5th to 15th century A.D.'¹ Was feudalism confined to the European society only or was it prevalent in other parts of the world, is a question which does not lead to unanimity. Historians who believe in particularistic approach argue that it was a specific phenomenon which could develop in Medieval European society only. Whereas scholars groping for generalisations and universalisations in the process of historical development think that with slight modifications, feudalism can be witnessed in different societies at different stage of its evolution. Perhaps conforming to the later view, B.N.S. Yadav says 'As a matter of fact, any society may be studied in different degrees of specificity, but for comparative purposes it is necessary to bring out the essentials and conceive of general ideal types without which it would become impossible to find pattern and structure in human organisations.'²

1. Sharma R.S. – Indian Feudalism C. 300-1200 A.D. – p. 1.

2. Yadav, B.N..S. – Society and Culture in Northern India in the twentieth century. P. 176.

Another Raging controversy associated with feudalism is related to the basic features of such a concept. Historians like strayer and coulborn emphasise on the politico legal aspect of feudalism and take fragmentation of central authority along with lord vassal nexus as its most dominating characteristic. They do not accept that it was a socio-economic system.¹ Somewhat similar view point is propounded by max weber and maitland when they uphold that bureaucratic hierarchy is replaced by a system of relations of purely personal royalty between the lord and his vassals.² But for Henry Pirenne and also for Marxist historians in general, Feudalism in essence was based on economic relationships. Thus Lenin points out that self sufficing local economy, low and stagnant level of technique and the dependence of peasants on the landlords often associated with high degree of exploitation and poverty, are the prominent features of feudalism.³ Thus we can see that, if one school of historians take feudalism as a specific form of government, the others observe that it was a socio economic system marked by the appropriation of a part of production by landlord and the emergence of a closed economy which encourages production for local consumption. However for our study, we can take the definition given by Marc Bloch, which is very comprehensive in its approach, as the starting point.

1. Coulborn, R.ed.- Feudalism in History p. 4-6.

2. Quoted in Yadav, B.N.S. op.cit. p. 178.

3. Lenin, Selected works vol. 1, pp. 243 f

Feudalism according to him constitutes of: 'a subject peasantry; widespread use of service tenement (i.e. fief) instead of a salary, which was out of question; the supremacy of a class of specialised warriors; ties of obedience and protection which bind man to man and within the warrior class, assume the distinctive form called vassalage, fragmentation of authority - leading inevitably to disorder; and, in the midst of all this, the survival of other forms of association, family and state, of which the latter, during the second feudal age, was to acquire renewed strength.'¹

Was there ever feudalism in India or not? Is a question which is so hotly debated by the Indian scholars that it still eludes a common view point. R.S. Sharma, B.N. S. Yadav are among prominent historians who subscribe to the notion that Gupta and post Gupta period saw the emergence of feudalism. These scholars draw a great deal of similarities between European feudalism and its Indian counterpart.² Some of the important features of Indian feudalism as pointed out by them are dependence of peasantry on the landlords which was often tied with the soil, decline in trade and commerce and the development of a local economy, fragmentation of political authority land grants to both brahmanas and officials; and the coming into prominence a group of landed aristocracies. R.S. Sharma delineates the important features of

1 . Bloch, Marc - Feudal society, tr. L.A. Manyon, Chicago, p. 446.

2 . Sharma R.S. - op.cit. pp. 1-76, Yadav B.N.S. - op.cit. pp. 136-172.

Indian feudalism as, 'the grant of both virgin and cultivated land, the transfer of peasants, the extension of forced labour, the restriction on the movements of the peasants, artisans and merchants, the paucity of coins, the retrogression of trade, the abandonment of fiscal and criminal administration to the religious beneficiaries, the beginnings of remuneration in revenue to officials and the growth of the obligations of the samantas.'¹ However, these scholars are aware of the fact that the peculiarities of Indian and European societies were not the same and thus Indian feudalism was not a carbon copy of its European version. Yadav comparing the two observes 'on the whole, we do not find here a feudal society of the type we come across in medieval Europe. The trend and phenomenon of feudalism here, as exhibited in the political and socio economic sectors, could not strike such deep roots and become so widely pervasive as in Medieval Europe.'²

But there are other scholars who do not accept that early Medieval and Medieval India witnessed the prevalence of feudalism. Spellman opposed the notion of feudalism on the ground that it was a European phenomenon and thus had different connotations making it unsuitable to describe the Indian peculiarities and social organisation.³ A.L. Basham describing the social formation and economy in early medieval India employs

1. Sharma, R.S. Op.cit. p. 76.

2. Yadav, B.N.S. – op.cit. p. 180.

3. Spellman, J.W. – Political theory of Ancient India p. xxii.

the term 'quasi-feudalism' to emphasise upon the fact that, notwithstanding some similarities between European and Indian feudalism the two were not identical. D.C. Sircar counters any move to trace the existence of feudalism in early medieval India. Making a thorough empirical study of numerous land grants he comes to the conclusion that 'landlordism' in early medieval period is confused with European feudalism.² He also confronts the view point that there was a decay in trade and commerce and the circulation of coins. Similarly B.D. Chattopadhyaya too opines that trade and urban centres had not declined in the Gupta and Post Gupta period. Not only the local and inter-local networks were in operation during the same period but some new urban centres came to fore as well. In fact, Chattopadhyaya, says in many regions, in addition to many urban centres continuing into the early medieval period, there was a continuing process of the emergence of new urban centres.³

Harbans Mukhia seeks to establish that feudalism was a specific phenomenon and by no account of imagination be termed a world system.⁴ Pronouncing feudalism to be a system based on 'non economic compulsion or as an agrarian economy which is characterised by the appropriation of surplus production and

1 . Basham, A.L. – The Wonder that was India – p. 94.

2 . Sircar, D.C. studies in the political and administrative systems in ancient and medieval India. P. 16

3 . Chattopadhyaya B.D. – Romila Thapar ed. Recent perspectives of Early Indian history p. 328.

4 . Mukhia Harbans – Perspectives on Medieval history pp. 91-92.

labour force by a ruling class of landed intermediaries to be insufficient to understand the socio-economic formation. He observes 'these definitions seek to identify an entire social and economic structure in terms of the political or juridical basis of the exploitation of the primary producer, the peasant, they do not take into account the totality of the production system.'¹ It is also pointed out by Mukhia that these definitions are so broad to cover all pre capitalist systems in one sweep, for all pre-capitalist societies were characterised by primarily agricultural production, unequal division of property and non-economic coercion by the ruling class which appropriated the peasant's surplus in a variety of forms – rent (in labour, cash or kind) or revenue or in the form of servile or bonded labour.² Mukhia also underlines the fact that, it was not 'dependent peasantry' but 'free peasantry'³ which was the dominant feature of Indian agrarian relation. Irfan Habib too opposes the common tendency to understand the new social and economic formation in Early Medieval India through all encompassing, loosely defined term like feudalism. He however prefers the term 'Indian Medieval economy'⁴ to describe the changing socio economic milieu of medieval India.

1 . Ibid, p. 92.

2 . Ibid,

3 . Ibid, pp. 120-122.

4 . Habib, Irfan – Economic history of the Delhi Sultanate – p. 298.

I

D.D. Kosambi in his pioneer work 'an introduction to the study of Indian history' gave the concept of 'feudalism from above' and 'feudalism from below'. The former according to Kosambi 'means a state wherein an emperor or powerful king levied Tribute from subordinates who still ruled in their own right and did what they liked within their own territories – as long as they paid their paramount ruler. These subordinate rulers might even be tribal chiefs, and seem in general to have ruled the land by direct administration, without the intermediacy of a class which was in effect a land owning stratum. The latter (feudalism from below) means a stage where a class of Land owners developed within the village, between the state and the Peasantry, gradually to wield armed power over the local population.'¹ Further differentiating between the two, kosambi says 'Taxes were collected by small intermediaries who passed on a fraction to the feudal hierarchy, in contrast to direct collectionn by royal officials in feudalism from above.'² Though Kosambi does not elaborate much on the differences between the two stages it can be imferred that feudalism from above indicates a conditon of tributary states which is marked by a decentralisation of power among vassal

1 . Kosambi, D.D. – An Introduction to the Study of Indian History – p. 295.

2 . Ibid,

states though the central power is strong enough to command and control the tributaries.

The growth of self contained village which resulted in the decline of the trade was according to Kosambi the result of the method employed by Guptas to establish new settlements. Unlike the Mauryans who used force and absolutism of State, Gupta preferred the private initiative which was backed by the state. The state protected and encouraged private settlement on condition of paying in kind, much lighter taxes than under the Mauryas.¹ This very prosperity Kosambi killed the empire.² The growth of the virtually self- contained village meant considerable decrease of commodity production per head. The highly profitable new trade went down.³ This meant that the tax in kind had not only to be collected but increasingly to be consumed by local officials and dispersed gurma police garrisons or by a constantly travelling court, because the trade whereby the grain could have been converted into cash (essential to maintain stationary concentrations of the imperial forces) had dwindled. This in turn led to the decline of a central army, the rise of local princelings from new tribes, ambitious feudatories, or daring officials. Tribute collection would become impossible ; hence the inevitable collapse of Empire.⁴

1 . Ibid, p. 302.

2 . Ibid,

3 . Ibid,

4 . Ibid, p. 303.

In his comprehensive work on Indian Feudalism, R.S. Sharma delineates the origin, features and different stages of feudalism in great detail. The economic political and social significance of feudalism is also underlined. He also endeavours to draw similarities and differences between Indian and European version of Feudalism. R.S.Sharma opines that land grants to Brahmanas and temples which was gradually extended to officials as well as provided the initial impetus to the rise of feudalism . 'The origin and development of political feudalism is to be sought in the land grants made to brahmanas from the first century A.D. onwards. Their number becomes considerable in Northern India in the Gupta period and goes on increasing.'¹ Unlike the villages granted to the brahmanas in pre-Mauryan period, land grants, of Gupta period enjoyed not only the revenues from villages granted but also carried the administrative powers as well. Two significant features of such grants, which became more frequent from the 5th century A.D., according to Sharma were, the transfer of all sources of revenue, and the surrender of police and administrative functions.² Due to such land grants as Sharma puts it 'the comprehensive competence based on centralised control', which was the hallmark of the Mauryan state, gave way to decentralisation in the post Maurya and Gupta period.³ Besides

1. Sharma, R.S. - Indian Feudalism C.300-1200 p. 263.

2. Ibid,p.2.

3. Ibid, p. 5.

religious purpose such grants resulted in better law and order of the area. Thus it is pointed out 'Priest never supplied any soldiers as the bishops did in England, but where was the need for military service of the people could be persuaded to behave themselves and to acquiesce in the existing order.'¹

Were such land grants made to officials in lieu of their salary or not? Sharma answers in affirmation. However, he accepts that 'in the Gupta period there is no direct epigraphic evidence of grants made to officers for their military and administrative services'² Paucity of coins ³ and titles like *bhogika* and *bhogapatika*⁴ used for officers indicating enjoyment of revenue are ample proofs, thinks Sharma, that remuneration was paid by land grants. Moreover he further argues, the influence of religion being all pervasive, the mode of payment to priests may have set the patterns for others. It was not only practical but also meritorious and auspicious to pay others by land grants.⁵ During Gupta period village headman appointed by the king were becoming semifeudal officers'. He could impose forced labour on peasant women.⁶

1. Ibid, p. 7.

2. Ibid,

3. Ibid, 14-15.

4. Ibid, 15-17.

5. Ibid, p. 263.

6. Ibid,

The process of conquest, by which smaller chiefs were reduced to subordination and reinstated in their positions provided they paid regular tributes and did homage contributed in large measure to the growth of feudal relations.¹ Central authority was further undermined by the loss of royal monopoly over the possession of horses and elephants, especially the latter.²

One of the chief features of Indian feudalism according to Sharma had been the total subservience of peasants to the land lords. Such a situation is comparable to the serfs of medieval Europe. 'The basic feature of European feudal economy was serfdom, under which peasants were attached to the soil but did not own it. In villages given as grants under the palas, Pratiharas and Rastrakutas the position of peasants was not materially different.'³ This system originated with the growth of practice of giving arable land to those who did not cultivate the land themselves. Temples and monastries cultivated their land through semi serfs or temporary tenants paying rental to the landowners.⁴ Tracing the general development of Serfdom, Sharma makes following observation. 'Serfdom began in the peripheral areas and then gradually spread to the heart of the country in Northern India; It originated in mountainous or back ward regions which did not have too many peasants to run the local economy, but because of

1 . Ibid, p. 24.

2 . Ibid,p.30.

3 . Ibid,p.118.

4 . Ibid,p.46.

the powers it gave to the grantees over the cultivators it later spread to developed areas; it began with the share croppers and then it covered the peasants in general; finally it began with plots of land and then it came to embrace whole villages. By the middle of the 8th century serfdom became fairly common.¹

Explaining the emergence of such a phenomenon sharma points out that one of the reasons, because of which free peasants, lost its status was the imposition of several new taxes.² During the Gupta period the villages had to pay forced contributions of money or supplies to the royal troops and officials when they halted or passed through the village.³ The practice of realising contributions, according to Sharma which were not sent to the state treasury but were consumed locally by royal troops and officers tended to set up as another class of intermediaries and thus to lower the position of the free peasantry.⁴ Forced labour, Right of eviction granted to beneficiary and peasants being required to stick to the soil in case of its transfer also reduced the peasants to a state of serfdom.⁵ Transfer of communal rights presumably from the villagers to the donees, also adversely affected the peasants. The right to barren land, jungles, partners, trees, water reservoirs. Etc. would enable the (donees) to tax the

1. Ibid, p. 57-58.

2. Ibid, p. 52.

3. Ibid.

4. Ibid.

5. Ibid, pp. 120-121.

peasants for using these.¹ The boundaries of many gift- villages were left undefined, and thus could be taken advantage of by the beneficiaries to increase the land in their personal possession.² Thus Sharma thinks, the transfer of the beneficiaries of agrarian rights enjoyed by the village to the grantees tended to dispossess the peasantry and created new property relations.³ Similarly the rights of subinfeudation also worsened the condition of the peasants.⁴

Besides the existence of serf, Sharma opines that, another area in which there was similarity between Indian feudalism and its European counterpart was the growth of manors, albeit with some differences. Even though lands granted to officials was very meagre (compared to that of Europe), 'The agraharas or villages granted to brahmanas bear the resemblance to manors, for in some cases the beneficiaries enjoyed the rights of levying forced labour of all varieties on their tenants.'⁵ But here Sharma draws some caution as well, Accepting that the scope of forced labour seems to have been very wide.⁶ He points out 'while a great part of the time and energy of European peasants was consumed by their work on their master's fields, the peasantry, in India gave most of

1 Ibid, p. 267.

2 Ibid,

3 Ibid,

4 Ibid,p.266.

5 Ibid, p. 74.

6 Ibid, p. 74.

their time to their own fields.¹ Similarly the number of free peasantry (in India) seems to have been far greater² and the 'process of subinfeudation was not so extensive in India as in Europe, so that the actual tillers of the soil maintained some kind of indirect connection with the central government.'³

It is also upheld by Sharma that, as in medieval Europe, self sufficient economic units, also arose in India as a result of land grants and certain other factors.⁴ How could the land grants result in self sufficient economic units is answered by Sharma through his following observation, 'The beneficiaries enjoyed several economic rights which cut the economic ties between the central authority and the donated areas. For the continuity and development of their economy they were more dependant on the local artisans and cultivators than on the officials of the central government. The beneficiaries were entitled to all kinds of local dues, a part of which they must have invested in local undertakings. The main idea behind tying down the peasants to the fields they cultivated, was to preserve the self sufficient village economy.'⁵ Some other factors which indicate the prevalence of self sufficient economy, according to R.S.Sharma were paucity of coins

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1. Ibid.
 2. Ibid.
 3. Ibid.
 4. Ibid,p.p. 63-64.
 5. Ibid, p. 64.

of common use from the Gupte period onwards,¹ decline of foreign trade (especially the Roman trade),² feudalisation of the corporate bodies of artisans and traders.³ Some other factors which encouraged self sufficient local economy and led to the process of political disintegration, as Sharma thinks were the practice of issuing coins by the nigamas during the post Maurya and Gupta periods.⁴ In the Gupta period the irrigation also tended to become a local responsibility.⁵

In the course of his study R.S. Sharma observes that Indian feudalism passed through several distinct stages.⁶ The land grants to start with were associated with revenue collection only, which changed in the 8th century. In the earlier period only usufructuary rights were generally given, but from the 8th century onwards proprietary rights were transferred to the donees.⁷ The process of grants culminated in the 11th and 12th centuries,⁸ which often marks the climax of Indian feudalism. Never before was land donated to secular and religious beneficiaries on such a large scale never before were agrarian and communal rights undermined by land grants so widely; never before was the peasantry subjected to

¹ . Ibid, p. 65.

² . Ibid, pp. 66-68.

³ . Ibid, pp. 68-70.

⁴ . Ibid, p. 73.

⁵ . Ibid,

⁶ . Ibid, p. 273.

⁷ . Ibid,

⁸ . Ibid, p. 242.

so many taxes and so much subinfeudation.¹ But Sharma adds this was also the period which witnessed certain cracks in the feudal economy, especially in western India.² Some of the factors responsible for the undermining of feudalism, were 'definite delimitation of donated land and the specification of its yields in kind and cash; the disappearance of forced labour (visti) , the revival of internal and external trade, and the resurgence of money exchange over a wide area.'³ Thus Sharma says 'At its height Indian feudalism contained certain seeds of disintegration. Therefore, the two centuries preceeding the turkish conquest marked both the climax and the decline of feudal economy in India.'⁴

B.N.S. Yadav, endeavours to study the concept of feudalism often juxtaposing it with its European counterpart. His work is perhaps most extensively documented one. To delineate the main features of feudalism he relies heavily not only on the contemporary inscriptions and archaeological data but also supplements them with literary accounts. Yadav perhaps belong to the school of such historians who think that universals are as important as particulars and interpretation and generalisations are but a necessary step towards a proper understanding of

¹ . Ibid, p. 242.

² . Ibid.

³ . Ibid,p.262.

⁴ . Ibid.

history. Thus feudalism may be a term which would seem more appropriate to the society and economy of medieval Europe but on deeper analysis it may also apply to other societies as well. This is more clearly pronounced by Yadav when he observes, 'The quest for pattern and structure in the mass of social data is a task from which no one can dissociate himself, and it has indeed led not only the sociologists, political thinkers, jurists and economists but also the historians to evolve the concept of the genre of feudalism by piecing together certain basic similarities, and to apply it to a number of societies in spite of the fact that they may differ in many other details.'¹ Thus Yadav not only draws a parallel with regards to the general circumstances like decline in trade and decentralisation of political power but also discovers the European institutions like fief, escheat, condemnation, dependent peasantry, Subinfeudation in its Indian counterpart.

Yadav assumes that feudalism which became so dominant a system of society and economy in post Gupta period can be traced to saka kushan age. The rudiments of a sort of lord vassal complex, the characteristic element of feudalism in the political sector, may be taken back to the saka kushana polity.² This period also had the germs of social and economic concomitants of feudalism – the emergence of a rural aristocracy grama samikas (masters, or lords of villages) and a class of peasantry more or less

1. Yadav, B.N.S. – Society and Culture in Northern India – p. 177.

2. Ibid, p. 136.

in subjection, under the circumstances characterised by the development of the productive forces as well as the settlement of foreigners on land as a ruling aristocracy.¹ But owing to the development of trade and commerce and expansion of money economy, says Yadav, the feudal tendencies could not have made much headway in the Kushana period.² Thus it was post Gupta period which witnessed economic decline and political confusion following foreign invasion which accelerated the growth of the feudal complex.³

Samanta as Yadav thinks was similar to vassals of European system and thus formed the essence of feudalism in India. This Samanta system became feudalised only in Gupta and post Gupta period. Literary and epigraphic sources reveal that from the Gupta period onwards the usage of the term Samanta became increasingly common in a sense similar to that of vassal, and thus it emerged as the key-word of Indian feudalism.⁴ Yadav also seeks to establish that Harshacharita and Kadambari for the first time give the obligations of a samanta which included the payment of yearly tributes, rendering homage to the emperor in person with an attitude of humble submission, court attendance with court service and military service.⁵

1 Ibid. pp. 140-141.

2 Ibid. p. 141.

3 Ibid.

4 Ibid. p. 136.

5 Ibid. p. 137.

Yadav cites many reasons for the growth of feudalism. The foreign invasion (Huna) which gave a death blow to the Gupta empire leading to the growth of centrifugal tendencies and corresponding weakening of central authority was according to Yadav one of the foremost causes responsible for the rise of feudalism.¹ A number of smaller independent states emerged after the collapse of Gupta empire. After the tripartite struggle of power between the Rastrakutas the Palas and Gurjara Pratihara, the empire of Gurjara Pratihara arose in Northern India like the feudal Frankish Carolingian Empire.² It has also been underlined by Yadav that the ancient tradition of digvijaya which was based on the principle of reinstating the defeated princes also supported the system of vassalage and thus feudal tendencies.³

Besides the vassalage, another important characteristic of Early Medieval feudal set up was the emergence of dependent peasantry. This Yadav thinks was the outcome of the fragmentation of land and the formation of small families which became common in early centuries of christian era owing mainly due to the recognition of the right of sons to participation. Many of such small families 'could not employ a large number of slaves and servants , and some could even become easily amenable to subjection by powerful individuals. Many a Sudra slaves and servant released in this way appear to have become dependent

1. Ibid, pp. 136-139.

2. Ibid, p. 139.

3. Ibid, p. 139.

peasant under the impact of economic forces, and this class continued to increase with the acculturation and inclusion of more people belonging to the tribes which were outside the pale of the Hindu social system, and also with the accession of the lower strata of peasantry to it.¹

Yadav also points out that like in Medieval Europe early medieval India also saw a general decline in trade and monetary circulation of many urban centres.² He further continues and observes 'The circumstances were bound to lead to the emergence of localism and a comparatively closed economy giving rise to a number of more or less self sufficient local economic units.'³ In this way a congenial atmosphere was created for the formation of feudal relations; in some degree, between the landed aristocracy immediately connected with land, and the peasants, on the one hand, and among the ruling aristocracy, on the other.⁴ The revival of trade and commerce and increasing use of coins in 11th and 12th centuries, though often associated to have inhibited the growth of feudalism, could not, as Yadav thinks, make a solid dent in the Samata system. The samanta hierarchy and the lord vassal nexus do not reveal any marked sign of decline or break up in the 12th century A.D. the economic developments do not appear to have become so extensive and reached such a level as to bring about any rapid change in the Indian context. Besides

1 Ibid. p. 140.

2 Ibid. p. 141.

3 Ibid.

4 Ibid.

Indian Feudalism appears to have rather adapted to that particular phase of money economy and other economic developments."¹

Another important factor, accorded to Yadav, which was closely associated with the rise of feudalism was the growing practice of granting land to relatives, members of the clan, warriors, chiefs and officers in the post Gupta period.² Some earliest references of secular land grants to the members of blood-royal are found in Saka Ksatrapas and the satavahanas.³ But the practice became common in post Gupta period. Unlike some of the historians who are tentative in accepting that there are instances of military grants, Yadav is quite clear in this regard. He posits that many inscriptions of Chandellas, Paramaras, Gurjara-Pratihara and the literary accounts given in Harsacharita, findings of Heuen-Tsang, Kathakosa, Ramacharita, Sukranitisara, Prabandhachintamani, Latakamelaka, Manasollasa, provide us with ample evidence of purely military grants.⁴ In India also the vassalage system was intimately connected with military service and the land grants for the same were both the cause and result of weakening of central authority. In this regard yadav makes following remarks; 'Thus, as in a number of feudal societies, In India also the particular lord vassal complex may be found to be

1. Ibid, pp. 141-142.

2. Ibid, p. 142.

3. Ibid, p. 143.

4. Ibid, p. 143.

intimately connected with the military needs and the monopoly or near monopoly of military power largely in the hands of the Ksatriya ruling aristocracy. Here also the wide prevalence of military grants may be viewed in the context of weak economic function, recurrent periods of political disorder, chronic warfare and to some extent the menace of Muslim invasions.¹

The military grants often became hereditary and the governmental powers and privileges passed to a considerable extent to the land holding aristocracy.² Yadav points out that in *Lekhapaddhati* we find not only grants with explicitly conditioned by obligations but also the tendency of sub-infeudation can be traced in these documents.³ Such land grants, according to Yadav were similar to the fiefs of Western Europe.⁴ It is also suggested by Yadav that many documents refer to the seizure and confiscation of such holdings for failure to render military services or after the death of the grantees, and compares this practice to the system of escheat prevalent in Western feudalism.⁵ In western Europe, due to the prevailing sense of insecurity and lawlessness, humbler folk were often compelled to enter into a contract with the powerful individuals, whereby former provided services to the latter who in turn gave protection to the former. Yadav though admits

1. Ibid, p. 146.

2. Ibid, p. 146.

3. Ibid, p. 145.

4. Ibid,

5. Ibid,

that in India we do not find a clear evidence of commendation but asserts that some resemblance of the same can be traced in the emergence of the chiefs known as Damaras in Kashmir.¹ Moreover an eighth century inscription of Bihar where it is mentioned that a merchant became the king of some villagers by paying their dues to the king of Magadha, is argued by Yadav as an example of something approaching commendation.² The land grants made to Brahmanas and religious institutions though often associated with revenue and administrative privileges, could not, in view of Yadav become a solid foundation of feudalism. He opines, 'In most cases their (Brahmanas) landholdings, hardly exceeding a village in each case, could not have become stable bases of political feudalism, especially when the beneficiaries were devoted to religious and academic pursuits.'³

The samanta system had it's own hierarchy' with which the privileges and powers were associated. In this pyramidal structure, points out yadav, 'the Chakravartin maharajdhiraja was the supreme overlord and the rajaputras (Petty chiefs holding a few villages only) were at the bottom; the thakurs were also mostly village chief.'⁴ The panchamahasabda which became very popular in post-gupta period was honorific and often reflected the social status and power of the samanta. yadav observes. 'It is obvious

1 Ibid, p. 148.

2 Ibid, p. 149.

3 Ibid, p. 147.

4 Ibid - pp. 149-150.

that these five great titles or the privilege of using these five musical instruments in court and processions meant the insignia of royalty, the special mark of honour conferred upon loyal samantas by their overlords, officers were also admitted to the samanta order by the grant of the pancha mahasabda;¹ As regards the relationship between the superior and the inferior, the Indian system, says yadav resembles more to Japanese model as there also, the mutual obligations of the vassal and overlord were regarded as a part of the common behaviour, and less with the European system where it was based on a written or oral contract.² Though the evidence of written in Indian context may be found in Lekhapaddhati and in Rajatarangini mutual oaths obliged both the vassal and the overlord, such instances are but rarely found in early medieval India.³

The effect of the Samanta system on the powers of the Central authority and the consequent change in the nature of, Empire and the ideal of kingship is also studied by yadav in detail. He writes. 'King usually began to viewed as a highly placed private person, and sovereignty largely meant paramountcy, not much connected with public duties and responsibilities. The kingdoms and empires by the 11th and 12th centuries had become loose superstructures characterised by a network of loyalty in which a

1 Ibid-p. 154

2 Ibid.

3 Ibid.

large number of vassal chiefs of different grades owned allegiance to the monarchs.¹ Commenting further yadav observes 'Such empires, or tributary super structures naturally lacked solidarity, stability and real political unity, but what is more significant is that being cut off from the people they may have lost to a considerable extent the moral support of the latter.'²

The feudal fallout on the polity is not only evident in the changed ideal of state but also in the structure of the polity, is also brought to fore by yadav. The general tendency was the replacement of the Bureaucratic elements by the feudal ones. The hierarchy of authority in a bureaucratic sense was replaced by in many regions in varying degrees by the relation based on personal loyalty between a monarch and his Samantas, between these in turn and their own Samantas, and so on upto the level of the village chiefs.³ The administrative division of a Kingdom in which it is observed that bhukti (Province) and visays (district) which was standard territorial divisions during early medieval period was by the 11th century replaced by mandala, which yadav thinks reveal the feudal element in the territorial system.⁴ In contrast to the views of D.C. Ganguly, R. C. Majumdar and B.C. Sen, who interpret the term (Mandala) only as an administrative unit of a central government, yadav says 'a close scrutinymay lead one

1. Ibid. p. -155-156

2. Ibid. p. 157

3. Ibid. - p. 160

4. Ibid - pp. 161-162

to think that in many cases it meant more of a feudatory circle headed by a feudal superior paying allegiance to a king or emperor and less of an administrative unit of a central government. Thus the pundarika-mandala in Bengal was not governed by any office of the king in the latter part of the 11th century, but was the old zamindari of Bhima, the nephew of Divya who was the leader of the Kaivarta revolt.¹

The subjection of peasantry and the restrictions on the mobility of peasants and artisans, according to Yadav formed an important ingredient of Indian feudalism. He points out 'that some inscriptions from the different regions of the country, mention, by individuals or by the names of occupational groups or collectively, peasants and in some cases artisans and even merchants and village attendants along with the lands or villages donated by rulers to religious institutions and Brahmanas. There is also some evidence of the secular grants of this nature.'² Transformation of Sudars who were in eralier ages slaves and hired labourers into peasants during the period '600 to 1200 A.D. was as Yadav thinks a significant phenomenon from the point of view of the emergence of feudalism in India.³ On the basis of puranas and smritis yadav opines that the Sudras who were enjoined upon to serve the upper Varans were often reduced to the level of subjected peasantry who

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1. Ibid - p. 162.
 2. Ibid - p. 164
 3. Ibid - p. p. 166

was more or less confined to the piece of land allotted to him.¹ Besides some positive measures, religious ideology that they had no right to liberation which acquired considerable force during the early medieval period, restricted the migration of Sudras.² It is also suggested by yadav that similar practice of tying the peasants to the land and restricting their mobility can be inferred from the lands granted to brahmanas and religious institutions both Buddhists and Brahmanic.³

The estates of chiefs and land grants to Brahmanas may roughly correspond to manors of European feudalism, but the classical manorial system-in which dependents were by turns protected commanded and oppressed by their lords to whom many of them were bound by hereditary links-was different in many respect from its Indian counterpart.⁴ The subjection with dependence of peasants may be found to some extent in the Indian contest, but it was, thinks yadav, much less in degree and scope than the seritude of peasantry in werstern feudalism, who were overburdened with labour service on the lord's farm and a number of other dues, and were dependent on the lord as well as the land.⁵ Similarly the wide prevalence of Dharama Sastras in this age, regulating justice and social usages including property, like public

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1. Ibid-
 2. Ibid-
 3. Ibid- pp. 166-168
 4. Ibid pp. 170-171
 5. Ibid-p. 171

law in England, worked as a force against localism which is the chief mark of feudalism.¹ The complex mass of feudal laws, says yadav, in spite of the fact that there were some similar practices, would not be evolved here as in some parts of medieval Europe.²

R. S. Sharma emphasises upon the fact that the revival of trade and commerce in 11th and 12th century, led to the decline of feudalism. Yadav thinks that such a process did not have an immediate impact upon the nature of feudalism, but it initiated the process which caused the decline of feudal system during the sultanate period. The economic forces had already begun to inhibit in the 11th and 12th centuries, but its decline appears to have mainly the result of the change in the character and composition of the ruling aristocracy with the process of the break up of the old ruling hierarchy, and the wider circulation of coins, together with the introduction of the regular practice of the peasants payments in cash, which may have contributed to the growth of economic mobility, comparatively large scale trade between the town and the country is also said to have grown up in the fourteenth century.³

II

Among the historians who oppose that medieval India witnessed the growth of feudalism often resembling its European

1 . Ibid.

2 . Ibid.

3 . Ibid, pp. 172-173.

counterpart, D.C. Sircar finds a prominent place. It is put forward by Sircar, that none of the features of feudalism like peasants tied to the soil, vassalage system, serfdom, decline in trade and commerce and the growth of local economy can be traced in the medieval Indian Society.¹ The reason why some of the historians trace the existence of feudalism in India, is according to sircar, mainly the impact of marxist historiography which assumes that feudalism is but a necessary stage in the evolution of a society which follows the primitive community and the system of slavery.² He also posits that some writers are inclined to confuse India landlordism with European feudalism.³ Like the Zamindari system of late medieval Hindustan, the early Indian land system may exhibit some superficial resemblance with European feudalism; but none of the essential characteristics of the feudal system can be traced in India.⁴

Unlike the feudal system of Europe where king was regarded as the holder of all the kingdom, In India, the king's ownership of all land was only theoretical at least in respect of land under the possession of permanent tenants whose property could not be confiscated by the king.⁵ Majority of the land grants were to gods

1 . Sircar, D.C. – Studies in the Political and Administrative systems in Ancient and Medieval India – p.p. 16-25.

2 . Ibid, p. 15.

3 . Ibid, p.16

4 . Ibid, p. 15.

5 . Ibid, p. 16.

and brahmanas which was, thinks sircar, without stipulating any obligation of the donees to the donors.¹ There are only a few early Indian charters recording grants of land to people of the warrior class, sometimes for services rendered to the king. But there is no mention of obligations of the feudal type even in such records. 'It is significant, points out Sircar that not even a single charter records the creation of a great baron; the charters generally created small privileged estates.'² Unlike the feudal system which is characterised by the notion that one who takes land from another becomes dependent upon him, sircar points out, In India the social position of Brahmana donees and temple authorities was exceptionally high, and they were never looked upon as the king's vassals.³

Sircar also contrasts the view point that there was any dearth of coins in post Gupta period because of which the practice of payment for services in land instead of money developed.⁴ Numerous records, both literary and epigraphical mention various coins of gold, silver and copper prevalent in those days.⁵ Over and above these, observes sircar, there was never any real dearth of cowrie-shells which were extensively used as coined money in India

¹ . Ibid, pp. 16-17.

² . Ibid, p. 17.

³ . Ibid, p.

⁴ . Ibid, pp. 17-18.

⁵ . Ibid, p. 18.

in the Gupta and Post Gupta ages.¹ The Rajatarangini often speaks of payment of salaries in cowrie-shells, the word used for it being Dinnara.² Sircar however admits that many of the rulers of the early and medieval India do not appear to have issued coins, but he also adds that it was mainly because kings and rulers did not feel the necessity for fresh coins owing to the plenty of old coins and also of cow rie-shells in the markets.³

Contrary to the proponents of feudalism who hold that medieval India witnessed a general decline in trade and commerce, Sircar argues that trade both internal and foreign was flourishing in this period. He stresses on the fact that a flourishing internal trade is indicated by the discovery of hoards of coins of one part of the coins in another, as in the case of the petturipalem (Guntur District, A.P.) find of Saka coins.⁴ On the basis of inscriptions mainly from Gujarat and references from Rajatarangini, Sircar says India had trade relation with Arabs and Chinese in post Gupta period.⁵ Similarly it is also pointed out that the wealth exacted by the early Muslim invaders from the defeated Indian kings and the plundered temples as well as high salaries in cash paid by Kashmir kings to their officers undoubtedly point to the great prosperity of the country which

1 . Ibid,

2 . Ibid,

3 . Ibid,

4 . Ibid, p. 19.

5 . Ibid, pp. 19-20.

must have been due, at least partially, to flourishing internal and external trade.¹

The notion that the king or landlord had often right over the person of the tenants who were tied to the soil in more or less the feudal sense, is wrong, opines sircar.² It so happens mainly because most of the historians overlook the fact that, grant of land basically means power to collect revenue from the inhabitants, which uptill now was paid to the state. 'The grant of a village really means, says sircar, 'The transfer of the donor's revenue income, etc. from the villagers to the donees. The grant of a village without such income would be useless to the donee. 'Granting a village' and 'granting the village together with the villages' really mean the same thing, and the latter certainly does not refer to the king's or landlord's proprietary right over the villagers' person. Because the donated land would be either with or without inhabitants, 'together with inhabitants' was mentioned specifically'.³ Regarding the names of professionals like priests barbers; washerman, etc. who were allotted to donee, sircar argues that it was so because, 'they enjoyed village land on the condition of rendering service to the villagers'.⁴ Such transfer would not indicate any right over the person of the people since the families would cease to be under the obligation of rendering service whenever they gave up the

1. Ibid, pp, 19-20.

2. Ibid, p. 20.

3. Ibid, p. 22.

4. Ibid, pp. 22-23.

enjoyment of the property.¹ Same happened with those agriculturist householders who enjoyed state land or favours on the condition of working in the state farms or of cultivating state land on the basis of a share of the produce.²

B.D. Chattopadhyaya in his study of society and economy of period 400-1200 A.D. does not accept the common notion that, this period was marked by 'ruralisation' and 'localisation' of economy along with the emergence of landed intermediaries leading to subjection of peasantry on the one hand and decentralisation of political authority on the others. Pronouncing that recent historical research pose a threat to the axiomatic construct of feudalism in the early medieval India, Chattopadhyaya observes, 'the notion of Indian feudalism has come up against strong resistance, and mainly on two accounts: (I) Its appropriateness for analyzing social formation in pre-modern Indian history, and (ii) The empirical inaccuracies embedded in the concept.'³

Criticising the 'Indian feudalism' as a concept for understanding the pre-modern social formation derives from the idea that taking a loose set of attributes to designate a formation as 'feudal' would unhappily and unnecessarily widen the scope of the definition of feudalism and take its key attribute away from it.'⁴

1. Ibid, p. 23.

2. Ibid,

3. Chattopadhyaya, B.D. - op.cit. p. 326.

4. Ibid, p.

Chattopadhyaya proposes that 'empirical evidence of such dependence (of peasantry on lords) in the period when Indian feudalism is believed to have crystallised is considered absent and and in fact, in relation to the production process of the period, the peasantry experienced a considerable measure of freedom.'¹ He also argues that, if landgrants created oppressive conditions for the peasantry in early medieval period then the equally or more oppressed condition of the peasantry under Sultanate and later, when such land grants were absent, does not appear intelligible, it also does not appear intelligible how oppressed peasantry in the condition of general economic decadence of the early medieval period remained in a static condition in the medieval period when the overall structure of economy vastly commercialized, industrialised and monetized, had gone through radical changes.'²

Chattopadhyaya also draws attention to the fact that most of the view points which are repeated by rote, regarding the historiographical position of Indian feudalism are either empirically untrue or fraught with logical inconsistencies. Thus it is pointed by Chattopadhyaya that urban centres of early historical India did not decline but there was a continuing process of the emergence of new urban centres.'³ Similarly he asserts that money production and its circulation continued in the period of 400-1200

1. Ibid,

2. Ibid, p.237

3. Ibid, p. 328.

A.D.¹ The view point that the land grants corroding the authority of the state suffers from too inconsistencies; 'whereas hierarchised polity came to be essentially represented by the growth of the Samanta order, the recipients of land with administrative authority, who could be expected to have corroded the authority of the state and decentralised, it, were brahmanas and religious establishments.'² The notion that the social crisis of the Kaliyuga which necessitated the state to resort to the practice of making land grants because on its own it was incapable of exacting revenues from its subjects is also challenged by Chattopadhyaya.³

The construct of feudalism has bypassed two major processes which characterize Indian history in general and are necessary to understand the period between 400 and 1200 A.D. viz, (I) Transformation of Pre-state society to state society, through the process of state formation (ii) transformation of tribe into peasant and through this transformation, the positioning of its different segments in the hierarchy of the caste system, within the frame work of varna ideology.⁴ It is argued by Chattopadhyaya that a number of state which had come into existence recently gave land grants to brahmanas mainly for legitimisation. Thus land grants can then be explained not in terms of the collapse of the

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1. Ibid,
 2. Ibid, p. 329.
 3. Ibid, p. 330.
 4. Ibid, p. 331.

state structure but in exactly the opposite way: in terms of the dimension of legitimisation of state structure.¹ Nor was the land grant major mode of agrarian exploitation. Chattopadhyaya says that rural society was 'already' stratified and it would be anachronistic to think in terms of the existence of communal property or communal rights in land and its subsequent breakup of landgrants.²

Similar to sircar Harbans Mukhia too think that the word feudalism is a misnomer for the medieval Indian society. Feudalism was a stage in the evolution European society and the Socio economic and ecological conditions of India being different to that of Europe, such a system could not emerge in India, is the basic hypothesis of Mukhia. But the approach adopted by Mukhia is very different to that of Sircar's. It was not 'landlordism' but 'free peasantry'³ which was emphasised by Mukhia as the basic feature of Indian agrarian history. It was also underlined by Mukhia that politico-legal changes at the top could not result in new social formation, of the magnitude as was witnessed in Europe during the age of feudalism.

He begins his study by denying that Feudalism was a universal phenomenon. Feudalism was, says Mukhia, throughout its history, a non-universal, specific form of socio-economic

1 . Ibid, p. 334.

2 . Ibid, pp. 334-335.

3 . Mukhia Harbans – Perspectives on Medieval History – p. 92.

organisation – specific to time and region, where specific methods and organisation of production obtained.¹ In Indian context he criticises the notion of ‘dependent peasantry’ which according to Sharma and Yadav was the most dominant aspect of Indian feudalism. Some of the concepts associated with the subservient peasantry like forced labour, restriction on the peasant’s mobility are also denied for being of an importance in medieval agrarian system.

To start with, Mukhia points out that European Feudalism developed essentially as changes at the base of society took place (mainly as a result of a crisis of production relations based on slavery) whereas scholars like Sharma think that state action in granting land and subjecting peasantry by means of legal rights assigned to them was primarily responsible for the rise of feudalism.² He comments ‘it is, indeed, a moot point whether such complex social structures can be established through administrative and legal procedure.’³ Specific features of Indian agrarian history according to Mukhia have been higher fertility of Indian soil compared to European, and Nature permitting the Indian peasant to subsist at a much lower level of resources than his European counterpart.⁴ Similarly free peasantry⁵ has been the

1. Ibid, p. 92

2. Ibid, p. 112.

3. Ibid,

4. Ibid, p. 113.

5. Ibid,

Predominant feature of Indian History. It is also underlined that not only the soil were fertile but the tools and techniques were also relatively efficient which resulted into higher agriculture productivity in India.¹ This coupled with the low subsistence level of peasants implied that the amount of land required for subsistence of a peasant family was less compared to Europe.²

Mukhia also thinks that the system of agricultural production was so, that enserfment was not required. The relatively small size of landholdings in India averted the wastage of labour in the process of production.³ Moreover, these operations could be spread over much a longer period in the course of the year than in western Europe; Thus these does not appear to have been a highly concentrated demand for large amounts of labour during brief periods.⁴ It is thus that the absence of serfdom in Indian history, except for some marginal incidence, becomes intelligible.

The fact that mobility of peasants was hindered by legal limitations imposed from State in medieval period, is explained by Mukhia as being in accordance with the old tradition. Taking a cue from Arthasastra, Mukhia says, there were restrictions on the free alienation of land or the free mobility of peasants, with a view to preventing the loss of revenue,⁵ even before the Gupta period.

1. Ibid,p.117.

2. Ibid,pp. 116-117.

3. Ibid,p. 118.

4. Ibid,

5. Ibid,p.119.

While pronouncing that free peasantry' was the dominating characteristic of Indian agrarian relation, he underlines the fact that, the term (free peasantry) does not concern with the legal freedom of the peasant to alienate his proprietary right in land or implements or the usufruct of his land; it is even less concerned with the absence of legal restriction on the peasant's mobility.¹ Arguing further he says 'Legal restrictions on the alienation of land acquire social significance only in the context of a fairly developed land market, just as legal restrictions on peasants mobility become important only if there is a developed labour-market so that the peasant, by being made immobile, is deprived of a competitive price for his labour. In the absence of these features of developed land and labour markets, not all the legal freedoms would make a much difference to the fate of the peasant.'² Having said thus, he defines 'free peasant' as one who, quite independently of his social or juridical status earns his and his family's subsistence off his own (including his family's) material resources and labour.³ In other words he retains complete control over the process of production on his land through his (and his family's) labour.

1. Ibid, p. 93.

2. Ibid,

3. Ibid, p. 120.

In the Indian context, it is the economic aspect of free peasantry which is emphasised by Mukhia. The immobility of peasants had much to do with the economic realities of lack of land and labour market and very little with the legal and juridical restrictions. Mukhia thinks 'even if we were to accept state intervention in uniformly enforcing restriction on the peasant's movement or on his right to freely alienate his land, his mastery over the means and the process of production still remained intact, provided of course, that he cultivated his field (in such manner as he chose) and paid the revenue to the state or its assignees'.¹ The Indian peasant had control over his field or the plough or his labour. Free peasant production, thinks Mukhia, appears in Post Mauryan period when instead of state, individual reclamation of land may have become common. Such a phenomenon may have increased with the spread of noria and persian wheel (means of irrigation).²

Even if Mukhia talks of free peasantry which had high productivity and the nature making the subsistence very easy, he accepts that the condition of Indian peasant was no better. This he thinks was the result of the stratified social organisation. What nature permitted as the minimum level was made the maximum by

1. Ibid,

2. Ibid, p. 121.

social organisation.¹ These characteristics of agrarian history (high fertility low subsistence and free peasant production) was according to Mukhia the chief reason of 'relative stability in India's social and economic history'² which on its part did not necessitate the formation of new socio-economic system. The conflicts, says Mukhia, that characterised the economic history of pre-British India were conflicts over the distribution and redistribution of the surplus rather than over a redistribution of the means of production, which had changed the face of the medieval European economy. The conflicts over the redistribution of the surplus were resolved by and large within the existing social framework.³

A brief survey of the historiography of Indian feudalism quite clearly reveals, that the historians are divided over question of the emergence and development of feudalism in Medieval Indian society. But, notwithstanding such difference of opinions, almost all agree to the point that the condition of peasantry in the said period was wretched and full of misery. If the proponents of feudalism emphasise upon the institutionalised exploitation of the peasants within the system of feudalism, those opposing such a paradigm, underline the fact that the inbuilt drawbacks of the caste system. Which did not allow ample opportunities to the

1. Ibid.p.122.

2. Ibid, p. 123.

3. Ibid, p. 124.

sudras-which often constituted the majority of peasantry-was the most important factor for the pitiable condition of the peasants. The subjection of peasantry was often reflected through its inability to freely move, and increased burden of taxes and incidences of forced unpais labour.

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I.A.	—	Indian Autiquary
I.E.	—	Indian Culture
IHQ	—	Indian Historical Quarterly
JI	—	Journal of Ideas
JIH	—	Journal of Indian History
JNES	—	Journal of Near Eastern Society
JDS	—	Journal of Oriental Research
JAOS	—	Journal of the American Oriental Society
JASB	—	Journal of the Asiatic Society of Bengal.
JBBRAS	—	Journal of he Bombay Branch of the Royal Asiatic Society
JESHO	—	Journal of the Economic & social History of the Oriental
JEJRE	—	Gangauath the Researc Institute
JOJ	—	Journal Oriental Institute.